

# **Table of Exhibits**

*for*

**Lewis v. FAA, et al.; 3:11-CV-1458-AC**

*(Prepared 7/2/12)*

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Vicki Hendrickson/ANM/FAA

02/06/2007 09:00 AM

To Andrew Robinson/AWA/FAA@FAA

cc Barry Davis/AWA/FAA@FAA, Jason Ralph/AWP/FAA@FAA,  
Teri Bristol/AWA/FAA@FAA

bcc

Subject AB Intake Form-Concord ATCT

Attached is the Intake Form for the Concord ATCT. Mr. Ralph contacted AWP LR 1/29/07, the day the incident. After gathering additional facts and further consultation with HR, the case was reported to the AB on 2/2/07.



07008 AB Intake Form-Jeff Lewis -N- word.doc

Vicki J. Hendrickson  
Employee Program Specialist  
Admin Services, Western Service Area  
Phone: (425) 227-2013  
Cell: (425) 446-1050  
Fax: (425) 227-1732

*This email was sent to the wrong Barry Davis; the recipient promptly forwarded it on to all FAA Barry Davis', thus further sharing the slanderous content.*

*Jason Ralph forwarded this copy to Gwen Marshall in an email 2/6/07 @9:40AM. This is Gwen's copy, as provided to MSPB Discovery.*

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July 2, 2012

**Exhibit-1**: 2/6/07 Hendrickson email (4p)

## ACCOUNTABILITY BOARD NOTIFICATION FORM

## OCCURRENCE

1. Date/time of "alleged" incident(s) January 20 & 22, 2007
2. Date/time management was notified by reporting party and by whom January 29, 2007  
(Allegations must be reported to the Board within 2 working days of incident.)
3. Date reported to the Board 2/2/07
4. Was management notified of allegation? If not, why? yes
5. Accountable Official (if applicable) Teri Bristol, Acting Terminal Director, WSA  
(Name, Phone number, Routing Symbol)
6. Was the Accountable Official notified? If not, why? Yes

**REPORTING PARTY**

7. Name of reporting party(ies) William Marks, CPC Gender Male  
(AHR, Management, Security, National Intake Unit, IG, Administrators  
Hotline, other)
- Title/Series/Grade CPC-2152 Phone 925-685-5743
- Contract Employee/Contract \_\_\_\_\_ COR Notified \_\_\_\_\_
- Bargaining Unit Employee yes X no \_\_\_\_\_
8. Where does reporting party work? CCR ATCT  
(LOB/Facility/Center)
9. Supervisor Patricia Hardy Phone 925-685-5743
10. Date allegation(s) reported to whom  
Supervisor  
(Supervisors, Team Leader, etc.)

**RESPONDENT** (person complaint against)

11. Name of respondent (s) Jeff Lewis Gender male  
Title/Series/Grade CPC, 2152 Phone 925-685-5743  
Contract Employee/Contract \_\_\_\_\_ COR Notified \_\_\_\_\_  
Bargaining Unit Employee yes x no \_\_\_\_\_  
Where does respondent work? CCR ATCT  
(LOB/Facility/Center)  
12. Has the respondent been informed of the allegation(s)? yes  
13. If so, by whom? Patricia Hardy, OS

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Exhibit-1: 2/6/07 Hendrickson email (4p)

14. Date of notification January 30, 2007 Date form signed \_\_\_\_\_

**IF THERE IS NO REPORTING PARTY/NO RESPONDENT**

15. If there is no reporting party, explain how the allegations surfaced. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**ALLEGATION**

16. Describe the allegation(s) and identify the activity that is perceived as being harassment that is leading to a hostile environment. This must include the specific details, quotes, written verbiage, and pictures if appropriate. (Attach any other supporting information about allegation.)

The resonant stated that "Us Niggers cannot get any leave around here"  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**BACKGROUND**

17. Relationship between reporting party and respondent FACREP and CPC  
 \_\_\_\_\_  
 \_\_\_\_\_
18. Location where incident(s) occurred Tower cab
19. Has the reporting party raised this issue through any other formal process, i.e. EEO complaint process? Hotline, grievance or with a management official? If so, what avenue was used and when did they address the issue? No
20. How many individuals are involved in the current allegation(s)? One  
 \_\_\_\_\_  
 \_\_\_\_\_

**WITNESSES**

21. Were there any witnesses? If so, provide name(s). Bill Marks, John Crabtree, James Swanson, Ken Moyer
22. Have they been interviewed? Interviews are in progress
23. Relationship with reporting party? coworkers

**PATTERN**

24. Was it a one-time event or is it a continuing pattern of activity? Pending additional interviews, it was a one time use of the "N word" with some preceding use of ethnic slang

This page was concealed for 37-months, and eventually released via FOIA Appeal (Lewis received it on 3/8/10). The four witnesses are a key issue, and a slander by Jason Ralph, who alone declared these witnesses, none of whom produced any statements supporting Jason's slander. In fact, the four "witnesses" submitted signed statements on 1/24/07 and 2/11/07 for the internal inquiry, then were interviewed under oath in late March 2007 for the ROI...yet none of them substantiated Jason's slander. Lewis knew absolutely nothing of this allegation until 10/10/07 when he finally received a copy of the ROI.

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 Exhibit-1: 2/6/07 Hendrickson email (4p)

EXHIBIT: 2/2/07 (AB Intake, p.2)

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25. If it was a continuing pattern of activity; described pattern to include date of first through most recent occurrence.

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26. Has the reporting party raised this allegation before? If so, when? No

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27. With whom did the reporting party raise the allegation(s)? Operational Supervisor

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#### MANAGEMENT ACTIONS

28. Describe actions taken by management to this point. Reported to Employee Relations, Hub and Service area

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#### RECOMMENDATION

29. Recommended actions to be taken. Continue investigation to determine possible disciplinary action

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Lewis v. FAA, et. al., 3:11-CV-1458-AC  
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Exhibit-1: 2/6/07 Hendrickson email (4p)

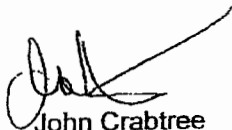
To: Patricia Hardy, OS CCR ATCT

From: John Crabtree, CPC CCR ATCT

Date: January 24, 2007

Last Sunday, 1-21-07, when Mr. Lewis arrived to work in the tower he made a statement about "management keeping us nigga's down." Controller James Swanson was present and told him not to say that again. In turn I told Mr. Lewis, "I wouldn't use that word again in the tower, ever again."

He tried to explain that's what they say on a program called Boondocks. I told him I've never heard of it or seen it and he should watch something different. I am making a statement now because I have observed a pattern of racial comments increasing in frequency and boldness from Mr. Lewis.



John Crabtree

*In a Sunday morning chat with coworker James Swanson about oppression in ATC training, I had stupidly quoted a Randy Newman song lyric, with the n-word. Management initiated an inquiry three days later, on 1/24/07; it included collecting four signed statements, such as this one. Aside from details about my one non-disparaging misconduct (which I have never denied), all of these signed statements were vague and non-specific. For the record, the only reaction to my song lyric quote was a sour look on Crabtree's face; he and Swanson both said nothing. Crabtree's reference to "Boondocks" refers to the fact that, the on the evening of 1/20/07 (Saturday), Swanson had set up his laptop in the tower cab and watched a DVD. He shared multiple episodes of this racial cartoon, in which I heard the n-word used dozens of times.*

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**Exhibit-2:** coworker statements (4p)

Exhibit 17  
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To: Whom it may concern

From: William Marks, NATCA Representative

Date: January 24, 2007

RE: Employee J. Lewis

On Saturday, January 20, 2007 Employee, John Crabtree spoke with me about Jeff Lewis' Inappropriate behavior in the tower. I told him I had not witnessed any racial comments from Mr. Lewis. Mr. Lewis arrived for his 10 AM shift and within ten minutes, I heard him mocking the management using a racial accent that was not his own. I told him lets change the subject and go to work. Later in the week, I spoke with Kenneth Moyer and he was concerned about what he had heard later the same day from Mr. Lewis.

William Marks



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Exhibit-2: coworker statements (4p)

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**MEMO**

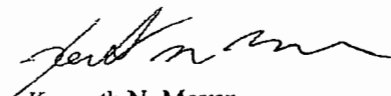
**Date:** 1/24/2007

**To:** Patricia Hardy, Supervisor, Concord ATCT

**From:** Kenneth N. Moyer

**RE:** Inappropriate Comments In The Work Place

I have in the past couple of months witnessed inappropriate comments from Jeffery Lewis. At first the comments were mild and seem to me that he was trying to fit in with the work force. As times went on, his comments became cruder and edgy as if he was emboldened to say more. Frequently, Jeff would use an Ebonics accent when trying to portray someone with a low I.Q. At one point while I was on Local, he used the "N" word while trying to be funny.

  
Kenneth N. Moyer  
ATCS, CCR ATCT

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**Exhibit-2:** coworker statements (4p)

Exhibit 16  
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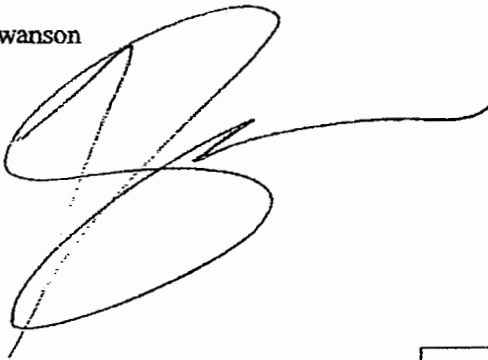
To: Whom it may concern in FAA

From: James Swanson

Date: February 11, 2007

On Sunday, January 21, 2007 I was working in the CCR tower cab with another controller, John Crabtree. I was working at the Local 1 position. John was working Ground Control. Jeff Lewis walked into the tower cab and signed into work. John, the Controller in Charge, asked Jeff to relieve him from the Ground Control position. Jeff responded by saying "You're trying to keep a nigger down". John and I both immediately responded to Jeff by telling him don't ever say that again and that it was not appropriate.

James Swanson



*The evening before, on 1/20/07, Swanson had shared a DVD of the racial cartoon "Boondocks" with me. We watched roughly three episodes, in the tower cab, on Swanson's laptop, and heard the n-word used dozens of times.*

*Note that, on page one of his 3/22/07 ROI Testimony, Swanson stated: "I have not heard Jeffrey make any other racial comments." Despite this, Swanson is declared as a witness to two fabricated n-word incidents...by Jason Ralph, and by Ken Moyer.*

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**Exhibit-2:** coworker statements (4p)

Exhibit 19

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EXHIBIT: 2/11/07 (Swanson Statement)

Memo for the Record

February 16, 2007 \*

SUBJECT: Workplace Violence Committee Meeting (RE: Jeffrey Lewis, Concord ATCT)

A meeting was convened this a.m. regarding recent behaviors demonstrated by the above named employee. In attendance were: Dick Fossier, Monroe Balton, Dr. Stephen Goodman, Rich Giles, Bobby White, and Barry J. Davis. ANM. The ATM, Jason Ralph also participated during the teleconference.

The employee was called into the Manager's office as a result of a recent accountability board issue surrounding the use of inappropriate language. This was the employee's first day from RDOs. The ATM attempted to present a letter informing him that his use of language was inappropriate and that he (ATM) had received notice from employees that he (employee) had received feedback from other employees that they felt intimidated by his behavior of contacting them about the alleged incident and Administrator's Hotline. The meeting was terminated due to the employee's behavior - he was clearly agitated, pointing his finger in his supervisor's face, and the manager felt that the employee appeared to be threatening and would actually strike him. The employee, I believe, requested sick leave, and the manager concurred and asked him to go home, that the meeting was over, and escorted him out the door. The manager then returned to his office and closed the door. The employee proceeded to bang and kick the door and then go upstairs to the cab area. The manager called the cab and asked that they lock the door to restrict entry. He then looked for the employee to direct him to leave. It appeared that the employee left and re-entered the building several times. The ATM called the local police department and they conducted a walk-thru with the ATM to ensure the employee had vacated the premises.

The employee refused to sign the letter that was presented to him. The ATM felt as though the employee would be a threat to others at the facility and had received a request from a supervisor to not work alone with this employee. The facility is open from 6:00 a.m. until 9:00 a.m. Given a situation a few weeks past when the employee actually hit a fellow employee in the chest, the ATM was concerned that the employee had elevated the situation, demonstrated a predisposition to hit another person, and was aggressive, confrontational, and belligerent.

Dr. Goodman suspended the employee's medical. The manager was waiting for correspondence to direct the employee to return his ID and keys and not to report to the facility and to inform him that he will be placed on administrative leave pending the outcome of an ROI. The ATM will carry the employee on sick leave for today as a result of the employee's inability to perform safety-related work. He believed he was clearly physically upset, and his behavior demonstrated he was not in a condition to work position. The employee was scheduled to return to shift work tomorrow, Saturday, February 17, 2006, at 10:00 a.m.

Notes and the letter that was drafted are attached. The Contra/Costa Sheriff's Department is to be contacted and provided a copy of the employee's picture and physical description. The facility members are aware of what type of vehicle the employee drives and they will ask for additional surveillance of the tower after hours.

Employee recently reassigned to Concord ATCT because of training failure at ZOA ARTCC. He was been w/the Agency 7 - 8 years. I will confirm this with his personnel history and provide a briefing to Gwen Marshall on Tuesday.

Cindy A. López-Hickson  
EAP Manager

\* LEAS OBTAINED 3-15-10  
V.A. FOIA APPEAL

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**Exhibit-3: 2/16/07 "Memo for the Record (1p)"**

To: Barry J Davis/ANM/FAA@FAA, Teri Bristol/AWA/FAA@FAA  
 From: Jason Ralph/AWP/FAA  
 Date: 02/20/2007 03:56PM

cc: Gwen Marshall/AWP/FAA@FAA, Dennis Sullivan/AWP/FAA@FAA, Frank Ferrera/AWP/FAA@FAA  
 Subject: JEFFREY LEWIS UPDATE

Barry,

Thanks again for your prompt actions last Friday. Your timely coordination with security, medical, LR, and general guidance was instrumental in maintaining the safety and security of our employees.

Reference your request for some history:

Mr. Lewis came to Concord Tower on October 15, 2006 after six years at Oakland Center as a developmental, which resulted in a training failure. He was offered a position at Twin Falls ATCT and declined because he felt he was entitled to a higher salary and better proximity to his family. The offer was redone to reflect a higher salary and assignment to Concord????

Since his arrival at Concord last fall, Mr. Lewis has been a very difficult employee to supervise. He is constantly argumentative, confrontational, and intimidating to both peers and supervisors. Frequent arguments with the CIC, disagreements with his instructors and CPCs, results in his request for sick leave, which adversely effects our staffing coverage for the shift.

On November 15, 2006, as he was leaving the tower cab, following an argument with the CIC, he waved his finger in the CIC's face and poked him in the chest saying he would talk to him later. As a result, he was counseled by the supervisor regarding his inappropriate conduct. In addition, I have terminated several meetings and ordered him out of the office due to his escalating hostility and insubordination.

On January 23, 2006, he was issued a Letter of Warning for transmitting to Travis Approach and a pilot requesting service that he was incapacitated and may not be able to perform his duties due to a migraine headache. His actions were once again the result of an argument with the CIC and subsequent request and denial of leave.

On February 6, 2007, following notification by the supervisor of the Accountability Board report and investigation regarding his use of racial slurs in the workplace, he returned to the office, lunged at the supervisor and attempted to bully her into returning the notification he had just signed. Due to his threatening behavior, the supervisor (female) requested to be removed from all single person evening shifts out of concern for her safety.

On February 13, 2006 while attempting to interview Mr. Lewis regarding the racial allegations, he became belligerent, and was placed on administrative leave for the remainder of the shift. Nonetheless, as I was briefing LR, he returned to the office and began banging on the door wanting to serve us with a statement he had prepared. Despite being repeatedly told the meeting was over and that a new investigating official would be appointed, his abhorrent conduct continued.

On February 16, 2007, I attempted to direct Mr. Lewis not to interfere with witness or individual he believed was responsible for calling the Administrator's Hotline. He again became hostile and approached me in a threatening manner, waving his hands and pointing in my face. I terminated the meeting and directed him on five separate occasions to leave the office. Approximately two minutes later, he reentered the facility after going to his car. I directed him again to leave, he ignored me; I secured my office, notified security and personnel in the cab. He returned to my office, attempted to gain entry and then left. Local law enforcement was called and a sweep of the building was completed to ensure he was no longer on the premises. Facility locks were immediately changed and Mr. Lewis placed on administrative leave / schedule to facilitate a Report of Investigation.

Jason Ralph  
 Air Traffic Manager, CCR AT

*The content of this email is extensively contradicted by Agency emails, memos, and Leave and Earnings statements, including Jason's testimony to FAA Agent Burr earlier that afternoon. Jason's shifting story was not apparent, though, as Davis was the only ViWP attendee to receive this email (oddly, all other attendees were left out of the loop).*

*Eventually, a copy of this email was shared with other ViWP attendees. Jason FYI'd a copy to Cindy on 2/27/07, and she forwarded to Goodman, Giles et al on 3/1/07.*

*Also, this email is essentially Jason's ROI testimony, though he did make some slight edits (e.g., on 2/16, his testimony adds "I felt that I may have to defend myself from being assaulted").*

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 Exhibit-4: 2/20/07 Ralph email (1p)

EXHIBIT: 2/20/07 (Ralph email, 1556)

----- Forwarded by Dennis Sullivan/AWP/FAA on 01/13/2010 12:13 PM -----



Teri Bristol/AWA/FAA

02/20/2007 04:56 PM

To Jason Ralph/AWP/FAA@FAA

cc Barry J Davis/ANM/FAA@FAA, Dennis  
Sullivan/AWP/FAA@FAA

Subject Re: JEFFREY LEWIS UPDATE

Jason - thanks for your continued management support regarding this issue. Please let us know if there is anything additional we can do to support you.

Teri Bristol  
Acting Director of Terminal Operations  
Western Service Area

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**Exhibit-5:** 2/20/07 Bristol email (1p)



*Notes RE: DIR copy, as received 6/29/09*

The attached is a copy of the material portion of the Incident Report done by FAA security, Sarita Burr, in mid-February 2007, soon after I was locked out on 2/16/07.

I became aware of the existence of an internal "Incident Report" when, in late February 2009, Agency finally provided some emails in MSPB Discovery. A pair of emails included a subject line reading "Re: incident report – Jeffrey N Lewis", along with an icon indicating such a document exists. I made a FOIA request on 3/21/09, and apparently AWP-700 proceeded to reply, but was cut off, likely by AWP-7. Please note the email copies were forwarded from Sarita Burr to Flor Ramos on 4/3/09 and 4/9/09...nearly three months before I received the FOIA copies. In order to obtain the FOIA copies, I had to go to FAA HQ, Security, and complain about the non-response by AWP-700. A month later, I finally received these copies.

As for content, the "Detailed Incident Report" was apparently prepared by Sarita Burr, after she was called out to make a report on 2/16/07. The Report indicates she spent two hours. The report appears to be about the alleged events of 2/16/07 (lockout day), with brief references to prior related alleged misconducts in November 2006 and on 2/6/07. This report includes a line reading, "*As of 1420 hours on 2/20/07, the subject has not returned to the FAA facility.*" Thus, it appears an initial report was made on 2/16/07, and a brief followup on the afternoon of 2/20/07, just before data entry into FSRS.

There are many inaccuracies and impossibilities. Paragraph Two describes an alleged Accountability Board notification on 2/6/07, conducted by a CIC; this was done by a Supervisor, Patricia Hardy, and would NEVER be done by a CIC. Note, too, the description of my return alleges I was agitated and angrily told the CIC that I wanted to rescind my signature; i.e., as of 2:20PM on 2/20/07, there was no mention of the alleged lunge (which was invented later that afternoon; see Jason Ralph's 3:56PM email to Barry Davis).

Paragraphs four and five both refer to 2/16/07. They also both refer to the same written notification; i.e., contrary to the implication that there were numerous documents that day, they both refer to Jason's memo re: interference with an official investigation. In paragraph five, I did NOT go to the tower cab; I simply went to the breakroom and collected my cell phone and water bottle (from my unlocked locker), as I told Jason when he asked...and, in the entire ROI, NOBODY claimed I went to the tower cab.

In Paragraph six, Jason Ralph claims I ignored the administrative leave action in an unintelligible sentence. My phone notes clearly show, on 2/20/07, when Jason Ralph called me and advised he was changing my workweek retroactively, I questioned his right to do so on such short notice (less than a week)...and he hung up.

In Paragraph eight, the alleged poke in the chest is just fabrication; it never happened. Furthermore, this paragraph is presented to suggest "past behavioral problems". Note, there is no mention of the lunge alleged to have happened on 2/6/07; again, this slander was invented by Jason in his 2/20/07 @ 3:56PM email to Barry Davis. There are no other documents alleging this abhorrent behavior...because it never happened.

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**Exhibit-6: 2/20/07 D.I.R., by Burr (4p)**

2/20/07  
C/M20

**SENSITIVE SECURITY INFORMATION**

**FEDERAL AVIATION ADMINISTRATION  
FACILITY SECURITY REPORTING SYSTEM  
DETAILED INCIDENT REPORT**

Office: WP70 Incident #: AWP2007030 Credentials: 0048

Incident Type: Violence in the Workplace

Source Name: JASON RALPH Phone: 925 685 5743

LOC ID: CCR FAC TYPE: ATCT Level: 1

Facility Name: Concord ATCT

Status: Completed Date Entered In FSRS: 2/20/2007

Facility Address: 201 John Glenn Dr. Staffed: Y

City, State: Concord, CA Air Traffic Outage: N

ZIP: 94520

Occurred: On the Facility Property

Incident Date: 2/16/2007 Time: 0945 Date Notified: 2/16/2007

**NOTIFICATION INFORMATION**

FBI Notified: No

Police Notified: Yes

Name: CONTRA COSTA SHERIFF'S D Phone: 925 335-1500

Police Report #:

Other: Yes Description:

Name: VARIOUS FAA MGM'T Phone:

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**750 INFORMATION****Date 750 Notified:** 2/16/2007**750 Case Number:** N/A**Date Investigation  
Opened:****Date Close:****HOUR AND EXPENSE****Hours Regular:** 2  
**Hours Comp:** 0**Hours OT:** 0  
**Travel Expenses:** \$0.00

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Exhibit-6: 2/20/07 D.I.R., by Burr (4p)

**INCIDENT DESCRIPTION**

On the morning of 02/16/2007, Jeffrey N. LEWIS, Air Traffic Controller, herein referred to as SUBJECT, displayed aggressive, threatening behavior toward co-workers and his Manager, Jason RALPH. SUBJECT is employed in the capacity of Air Traffic Controller at the Concord Air Traffic Control Tower (CCR); 201 John Glenn Dr. , Concord, CA 94520; tel: (925)-685-5743 . SUBJECT has since been placed on administrative leave.

At the request of the SUBJECT's Controller-in-Charge (CIC), 02/6/2007, the SUBJECT signed a document informing him that an Accountability Board investigation had been opened. The SUBJECT is alleged to have used the word "Nigger" on two different occasions while on duty in the air traffic cab. The same day, the SUBJECT completed his shift and left the site. The SUBJECT later returned to CCR, agitated and angrily told the (CIC) that he wanted to rescind his signature.

On 02/12/2007, the facility Manager was advised that the SUBJECT had been querying co-workers to determine their involvement relative to the complaints made against him.

On 02/16/2007, at approx 0945 hours local, the SUBJECT received written and verbal notification from the CCR facility Manager Jason RALPH, instructing him to cease confronting co-workers who he thought may have complained about him.

**EXHIBIT: 2/20/07 (DIR, p.2)**

On the same date, while in the facility Manager's office, the Manager gave the SUBJECT a memo, instructing him not to interfere with the investigation(s). The SUBJECT responded in a loud, argumentative manner, demonstrating a threatening demeanor that was directed at the facility Manager. The SUBJECT approached and stood very close to (within inches of) the facility Manager. During the altercation, the facility Manager instructed the SUBJECT to leave the building at least five times and told the SUBJECT that he was not fit for duty. At first the SUBJECT ignored the Manager's direction, but eventually left the facility. Approximately two minutes later, the SUBJECT reentered the facility and went directly to the tower cab. The facility Manager closed his door and telephoned his management. The SUBJECT then approached the facility Manager's closed door, yelling, banging and kicking it. The facility Manager telephoned the Contra Costa Sheriff's Department for help. When the Sheriffs arrived, they searched the facility and determined that the SUBJECT had departed. The SUBJECT has not returned to CCR to date and all keys to the exterior of the facility have been changed.

On 2/20/2007, the facility Manager telephoned the SUBJECT, instructing him to return the facility 'BEST' key and FAA identification media (ID). Ignoring the administrative leave action, the SUBJECT proceeded to angrily state that the work schedule for this week interfered with personal plans.

As of 1420 hours on 2/20/2007, the SUBJECT has not returned to the FAA facility.

The SUBJECT has elicited aggressive behavior in the past. In November, 2006, he disagreed with a co-worker, and poked the CIC in the chest with his finger, stating they would talk later.

At minimum, an Accountability Board investigation, Hotline complaint, Internal Investigation and suspension of LEWIS' airman's medical certification have resulted from his conduct.

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-6:** 2/20/07 D.I.R., by Burr (4p)

## PROPERTY INFORMATION

**WARNING :** This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

**EXHIBIT: 2/20/07 (DIR, p.3)**

Jun 22 07 10:20a

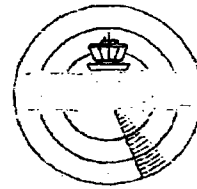
Dave and Margaret Caldwell 209-599-5111

P. 1

LEAD

**NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION  
AFL/CIO  
Local SFO**

Terminal 2-6-30  
San Francisco, CA 94128  
(650) 876-2883 ext. 102



Mr. Jason Ralph  
Air Traffic Manager  
Concord ATCT

June 22, 2007

Mr. Ralph,

This letter concerns grievance NC-07-63892-CCR filed by Mr. Jeff Lewis under the illegal work rules defined in the agency's "white book". I am also in receipt of your response dated June 5, 2007 denying this grievance.

As I had informed you earlier the union cannot, and will not, support any grievance filed under the "white book".

Therefore, as the designated Bargaining Unit Representative for this matter, I am hereby withdrawing grievance NC-07-63892-CCR with prejudice. Please feel free to contact me should you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "David B. Caldwell".

David B. Caldwell  
NATCA

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
Exhibit-7: 6/22/07 Caldwell letter (1p)

F7-7547WS  
Rcvd 10/31/07

Dick Fossier/AWP/FAA  
AWP-010, Human Resource  
Management

To Jason Ralph/AWP/FAA@FAA, Dennis  
Sullivan/AWP/FAA@FAA, Barry J Davis/ANM/FAA@FAA  
cc

07/08/2007 10:53 AM

bcc

Subject Fw: J. Lewis

EXHIBIT: 7/8/07 (Fossier email, 1053)

fyi - dick

— Forwarded by Dick Fossier/AWP/FAA on 07/08/2007 10:52 AM —

Stephen  
GoodmanMD/AWP/FAA  
AWP-300, Office of Aerospace  
Med Flt Surgeon

To Dick Fossier/AWP/FAA@FAA

cc

Subject J. Lewis

07/06/2007 02:42 PM

Dick:

The subject has acknowledged his medical disqualification. He has requested information from AWP-300 that we have not responded to. His file is on my desk if you need to see it. I will be out of the office from 7/9 thru 7/12.

Stephen

— VIOLATES MEDICAL PRIVACY —

EXHIBIT: 7/6/07 (Dr. Goodman email, 1442)

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
Exhibit-8: 7/6/07 Goodman email (1p)

SOURCE: F10-0211, p. 194 rcvd 12-3-09

June 7, 2007

Re: Jeffrey Lewis

Stephen,

*I scanned this one-page semi-anonymous memo, which was included in my "Entire Medical File" as received 7/24/2007. The scan does not include spelling corrections, hence the misspelling of Dr. Haldeman's name is retained. The author is likely Dr. Stephen Goodman or Dr. Stephen Roberts; the recipient is likely the other of these two Regional Flight Surgeons. I have added endnotes to clarify and rebut numerous points, especially the more slanderous remarks.*

Dr. Halderman, in his report dated 5/22/07, opined that Mr. Lewis had a Personality Disorder with Paranoid and Narcissistic Features and Psychosocial Stressors; Moderate-to-Severe<sup>A</sup>.

Dr. Halderman recommended that Lewis should continue to participate in psychotherapy<sup>B</sup>, and for him not to return to duty in an air traffic environment, performing SRD's. He furthermore indicated that he could work in an "evaluator" capacity where he could minimize interpersonal conflict. He indicated that Mr. Lewis' high intellect is an asset to the Agency.

In response, Lewis has demonstrated inappropriate behavior in the workplace for 17 years<sup>C</sup>. He has already been transferred to seven different facilities<sup>D</sup>. In each of these, his behavior remained unchanged<sup>E</sup>. In fact, one could argue that he has become more abusive, with time<sup>F</sup>. He has been in psychotherapy without documented benefit<sup>G</sup>. There is no evidence showing that Mr. Lewis has identified *himself* as the problem<sup>H</sup>, nor has he attempted to make amends to those adversely impacted by his abusive<sup>I</sup> behavior. Additionally, as we know, Mr. Lewis has continued to demonstrate aggressive<sup>J</sup> behavior when contacting the Agency.

Given the nearly two-decade-long pattern of abusive behavior<sup>K</sup>, it is my opinion that the likelihood for significant improvement with treatment regarding Mr. Lewis' personality disorder is much less than probable. While I agree with Dr. Halderman, that intelligence is an asset to the agency, intelligence in the presence of abusive behavior is not, and therefore I would recommend that Mr. Lewis be disqualified.

Stephen

*See also Dr. Haldeman's 3/25/09 letter, in which he concludes Lewis' elevated MMPI-2 Scale 6 scores were associated with maltreatment in his work environment.*

**EXHIBIT: 6/7/07 (slanderous doctor-to-c**

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-9: 6/7/07 doctor-doctor note** (2p)



20070607.. semi-anonymous doctor-to-doctor memo, with rebuttal endnotes, page 2

<sup>A</sup> I went to see Dr. Haldeman because I had been directed by FAA management to obtain a DSM-IV evaluation. At the time of the evaluation, I had been locked out of my workplace for over two months, subjected to an investigative interview in which numerous false charges were leveled at me, and was not even given acknowledgments (let alone answers) to the many reasonable questions I was asking at many levels of FAA management. Frankly, I went into this evaluation deeply troubled by the inexplicable treatment I had received from FAA management and half convinced that there must be something seriously wrong with my mind. As I had communicated to Dr. Haldeman, I wanted his evaluation to be thorough and objective; consequently, I participated in this evaluation thoroughly open to the possibility of paranoia or other mental illness when, in retrospect, I should have aggressively defended myself against the charges (ref: see 4/17/2007 letter, Lewis to Haldeman). On top of this, I was simply tired; I have endured this pattern of hostility in my job, off-and-on, since June 1991...more than eighteen years now.

<sup>B</sup> Referring to my participation in "psychotherapy" might suggest to some that I have a psychological problem for which therapy is needed. It needs to be understood that I would not now be seeing my present psychotherapist, Dr. Horstman, as I have since April, if I had not been locked out from work and ordered to undergo a DSM-IV evaluation last February. In Dr. Horstman's 8/31/07 letter, she wrote: *"If Mr. Lewis had not had the extremely stressful experiences of being locked out of his job and uncertainty about his employment status, he most likely would not have needed mental health services at all."*

<sup>C</sup> Given that this memo is apparently written by one Flight Surgeon to another, it is shocking that this profoundly libelous statement could be written and shared by someone I have never even met or talked to. I am stunned by the content and tone. By way of rebuttal, frankly, if I had spent the past seventeen years working with one person, they would likely assess my behavior as characteristically appropriate, tending to be more ethical and "proper" than the norm. So, where does this memo's sweeping charge of "inappropriate behavior" come from? A thorough review of the Flight Surgeon's "entire medical file" shows strong charges by FAA management, especially John Mollinet, from late 1989 to early 1991, alleging paranoia and a severe inability to work with others...but his charges were deflated by Drs. Taylor, Ferguson and Haldeman based on their interviews and the April 1991 evaluation which ruled out any Axis I or II diagnoses. In 1991, the evaluation clearly established that there was a serious interpersonal conflict defined by management actions against me after I had attempted to correct workplace safety and fraud problems. Note, too, that the "entire medical file" included numerous very detailed and accusatory memos (ref: 11/9/1989, 2/28/1991) provided by John Mollinet to the Flight Surgeon at a time when he refused to provide me with any written assessment of his concerns, claiming they were his "personal notes". Since then, for the past eighteen years, my "entire medical file" (as given to me by the Flight Surgeon) includes no further references to any personality issues or workplace problems... NOTHING until this semi-anonymous memo, dated 7 June 2007. In fact, the "entire medical file" did not even include a copy of the 12 March 2007 memo Jason Ralph had sent me advising I would face disciplinary action if I did not get a medical evaluation. According to Mary Williams (a Program Analyst in the Flight Surgeon's office), their office did not have a copy, so I sent them a copy of Jason's memo with my appeal on 12 July 2007. Note, too, that Jason's memo includes a CC: to Aerospace Medicine (yet they never received it...was it sent?)

<sup>D</sup> More realistically stated, I have "career-progressed" to seven different facilities. I was never "transferred" as if I was some type of incorrigible problem. The first move, from Troutdale to Salem, was a voluntary request to get away from the hostility of John Mollinet. The move from Salem to Portland was a promotion necessitated by the contracting out of our jobs at Salem. I was reassigned from Portland to Broomfield, CO after being washed out of the Portland radar program. I swapped with another controller to move on to San Jose, then I promoted into my longest service at Oakland Center. I wanted relief from the chronic fatigue I was feeling from overnight shifts at Oakland Center, so I withdrew from training, accepted a large pay-cut, and accepted the only facility they

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Exhibit-9: 6/7/07 doctor-doctor note' (3p)

20070607.. semi-anonymous doctor-to-doctor memo, with rebuttal endnotes, page 3

would offer: Concord Tower, managed by Mr. Jason Ralph. Ironically, too, if I had had a choice to ask for another facility, I would have done so the first week upon seeing the dysfunction of the workgroup at Concord ATCT.

<sup>E</sup> Again, where is the documentation to support this wild and extremely negative assertion?

<sup>F</sup> Yes, one could "argue", but where is the supporting evidence here?

<sup>G</sup> I began "psychotherapy" in early April, less than two months prior to the date on this semi-anonymous memo. I trust that Dr. Horstman has not violated medical confidentiality, so she has NOT discussed my "progress" with anyone. So, again, where is the foundation for this slander? If the Flight Surgeon cared enough to ask me to document my progress, I would have gladly done so. But, in fact, the Flight Surgeon would not even talk to me (and still does not). Equally egregiously, contrary to the union contract, the Flight Surgeon never even gave me a certified letter advising me of their 16 February 2007 decision to withdraw my ATC medical clearance. The "entire medical file" indicates they never even created this document (the document was required, see FAA/NATCA contract, Article 66, Section 6c and Section 7).

<sup>H</sup> I find this very interesting as it is precisely the theme I was being drilled with for 22-months, by John Mollinet and his boss, John Coppinger, at Troutdale from mid-1989 to mid-1991. My documents show numerous examples of both of them telling me, "*no, Jeff, YOU are the problem*", in response to the concerns I was raising (mostly safety and fraud issues). So, how does the author of this memo, who has never met me and therefore does not even know me, connect back to that same theme? Under deposition, if the author honestly revealed his/her sources, would he substantiate the feeling I have nearly always had that I had regrettably taken on a bad reputation by speaking up against practices at Troutdale, and this reputation has fore-shadowed me at possibly all my FAA facilities?

<sup>I</sup> Interestingly, this semi-anonymous memo from the "entire medical file" as given to me by the Flight Surgeon is the first time I have seen the word "abusive" applied to my alleged personality problem...

<sup>J</sup> ...and the first time the word "aggressive" has been documented about my alleged personality problem. Note, too, it would be good to find out who said what to the author to draw him to this "*continued to demonstrate aggressive behavior*" assessment.

<sup>K</sup> Again, where is the evidence to support this slander. Or, who told the author what, to lead him to this conclusion?

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012

**Exhibit-9:** 6/7/07 doctor-doctor note'

(3p)





U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Federal Aviation Administration  
San Francisco Air Traffic Control Tower  
San Francisco Int'l Airport  
T2-6-30  
San Francisco, CA 94128

July 27, 2007

Jeffery Lewis  
28242 S. Salo Rd.  
Mulino, OR 97042

Mr. Lewis,

This letter is to provide you feedback in accordance with AB Order, 1110.125A, Section 15(g) for your alleged use of a racially offensive slur in the work place.

A Record of Investigation was completed by the Security Department on March 27, 2007 and reveals that you did in fact use a racially insensitive slur on at least two occasions. Your comments came following several previous occurrences of using stereotyped and derogatory language associated with African Americans.

If you have any further questions regarding this matter, you may contact me.

  
Dennis Sullivan  
San Francisco District Manager, Acting

Acknowledge Receipt \_\_\_\_\_ Date \_\_\_\_\_  
Jeffrey Lewis, CPC

Cc: NATCA SFO / Dave Caldwell

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-10:** 7/27/07 Sullivan letter (1p)

Gwen Marshall/AWP/FAA  
AWP-010, Human Resource  
Management

To Dick Fossier/AWP/FAA@FAA

cc

bcc

Subject J Lewis

06/14/2007 04:09 PM

I forgot to ask, was Mr. Lewis getting some sort of discipline, e.g., a written admonishment for his N word usage?

Gwen

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-11:** 6/14/07 Marshall email (1p)

Dick Fossier/AWP/FAA  
AWP-010, Human Resource  
Management

09/05/2007 01:58 PM

To Richard Giles/AWP/FAA@FAA  
cc Barry J Davis/ANM/FAA@FAA, Monique  
France/ANM/FAA@FAA, Jason Ralph/AWP/FAA@FAA, Andy  
Richards/AWP/FAA@FAA  
bcc

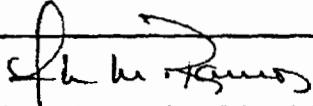
Subject Fw: LEWIS - AB FEEDBACK

RICHARD - fyi. PLEASE review the top two letters that Dennis Sullivan forwarded. On the basis of the ROI and management's review, Jeffery LEWIS was admonished for his use of the "racially offensive slurs." On the basis of this, we (HR & LOB) closed the Accountability Board case. Based on this, I would say it is OK to provide Lewis a copy of his redacted ROI, and if you have any questions, give me a call at X - 7827.



As an aside, we are pursuing the removal of Mr. Lewis based on the permanenet loss of his medical. Lewis has appealed this; I just talked to AWP-300, and they have not heard back from Federal Air Surgeon re the Lewis appeal.

THANKS - dick (X - 7827)

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
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Exhibit-12: 9/5/07 Fossier email (2p) (1p)

<b>Subject:</b> NAME: LEWIS, Jeffrey DOB/POB: 05-04-1959 SSN: GRADE: FH POS: ATCS FACILITY: ATCT, Concord, CA		U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION  REPORT OF INVESTIGATION  Security and Hazardous Materials	
Type of Case:	File No.:	Office of Origin:	
EMP (02)	AWP20070078	AWP-700	
Reference:		Report Made By:	
Accountability Board cases 20070097 and 20070098		Special Agent James Austin	
<u><b>Allegation:</b></u>  Accountability Board Cases 20070097 and 2007009 allege LEWIS stated in the workplace "Us niggers can't get any leave" on January 21, 2007. On February 16, 2007 when LEWIS'S manager presented him a discipline letter him in regards to this incident he became very agitated and began kicking his supervisor's door. It is alleged that his fellow employees are in fear of their safety.			
<u><b>Citations</b></u>  See attached pages			
<u><b>Summary of Findings:</b></u>  See attached pages			
<div style="border: 1px solid black; padding: 5px; text-align: right;"> Lewis v. FAA, et. al., 3:11-CV-1458-AC  July 2, 2012  <b>Exhibit-13:</b> 3/28/07, ROI allegations (1p) </div>			
Distribution		Approved	
AWP-700 (1)		Edward Jones 	
ANW-500 (1)		Manager, Security and Hazardous Materials Division,	
AWP-16 (1)		AWP-700	
		Date of Report	Status
		03/28/2007	Closed
This report is the property of the Federal Aviation Administration, and its contents are intended for official use only. Access to this report is to be limited to those persons whose official duties require it. Any unauthorized disclosure of its contents is a violation of agency Order 1600.2D.			

Form Exempt Under 44 U.S.C. 3512

 <p><b>UNITED STATES OF AMERICA</b>  <b>FEDERAL LABOR RELATIONS AUTHORITY</b></p> <p><b>CHARGE AGAINST AN AGENCY</b></p>		<p><b>FOR FLRA USE ONLY</b></p> <p>Case No. _____</p> <p>Date Filed _____</p>	
<p>Complete instructions are on the back of this form.</p>			
<p><b>1. Charged Activity or Agency</b></p> <p>Name: FAA, Concord ATCT</p> <p>Address: Concord ATCT, 201 John Glenn Drive, Concord, CA 94520</p> <p>Tel.#: (925) 685-5743 Ext. _____</p> <p>Fax#: (925) 825-1076</p>		<p><b>2. Charging Party (Labor Organization or Individual)</b></p> <p>Name: Jeffrey N. Lewis</p> <p>Address: Concord ATCT, 201 John Glenn Drive, Concord, CA 94520</p> <p>Tel.#: 503-710-1515 Ext. _____</p> <p>Fax#: ( )</p>	
<p><b>3. Charged Activity or Agency Contact Information</b></p> <p>Name: N. Jason Ralph</p> <p>Title: Manager, CCR ATCT</p> <p>Address: Concord ATCT, 201 John Glenn Drive, Concord, CA 94520</p> <p>Tel.#: (925) 685-5743 Ext. _____</p> <p>Fax#: (925) 825-1076</p>		<p><b>4. Charging Party Contact Information</b></p> <p>Name: Jeffrey N. Lewis</p> <p>Title: ATCS, Concord ATCT</p> <p>Address: 28242 S. Salo Road, Mulino, OR 97042</p> <p>Tel.#: ((503) 710-1515 Ext. _____</p> <p>Fax#: ( )</p>	
<p>5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? [See reverse] (1) and <u>1, 5, and 8</u></p>			
<p>6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.</p> <p>The charged activities detailed in this complaint became known to me on October 10, 2007. On that date, I received a copy of ROI AWP-20070078, a Report of Investigation completed 3/28/2007 by Special Agent James Austin of the FAA, Western Pacific Region, Security and Hazardous Materials Division. The copy was received more than six months after it was first requested, and it had been repeatedly requested. The copy was finally received by making a request under the Freedom of Information Act (FOIA).</p> <p>There are twenty-four exhibits within ROI AWP-20070078, including numerous sworn statements. The statements by the following individuals are relevant to this charge: N. Jason Ralph, manager, CCR ATCT (Concord Air Traffic Control Tower); Patricia Hardy, supervisor, CCR ATCT; and, William Marks, NATCA Local Facility Representative, CCR ATCT.</p> <p>Documents within this ROI indicate that the NATCA Facility Representative, Bill Marks, made false charges to FAA management, accusing me of misconducts. These false charges were made on the following documented dates: 1/23/2007, 1/24/2007, and 2/2/2007. Documents in the ROI also show that FAA Management proceeded to have Bill Marks "represent" me (unbeknownst to me, in opposition to his own charges) in subsequent Weingarten-context meetings on 2/6/2007, 2/13/2007, and 2/16/2007. I was locked out from the facility on February 16, 2007, and was eventually forced to involuntarily use all my sick leave and annual leave and then placed into a Leave Without Pay (LWOP) status. I have not worked since February 16, 2007.</p> <p>On May 23, 2007, I filed a grievance. On June 1, 2007, Jason Ralph received a fax from Dave Caldwell, the NATCA Facility Representative at SFO ATCT. The fax stated that NATCA does not recognize the "Whitebook" contract and would be withdrawing my grievance "with prejudice". On June 12, 2007, I received an email from Jason with an attachment: Jason's 6/5/2007 letter responding to my grievance filing and stating the grievance is "denied". In his "denial" letter, Jason Ralph did not mention that NATCA had refused to negotiate in good faith; thus, Jason Ralph made his "denial" decision unilaterally. On June 22, 2007, Jason Ralph received another fax from Dave Caldwell, withdrawing my grievance "...with prejudice"; I was not advised of this action but learned of it three months later in a phone conversation with another FAA manager, Dick Fossier, in the FAA Regional Office. On June 29, 2007, believing I had grievance rights in accordance with the Contract, I elevated the grievance to Step Two by sending a certified letter to Jason Ralph's superior, Mr. Dennis Sullivan, the manager at SFO ATCT. The certified letter was received on 7/2/2007, but the elevation of my grievance to Step Two was never acknowledged despite my repeated written requests seeking the status of my grievance.</p> <p>I am charging that this evidence documents a collusion between FAA management and NATCA, and thus a failure to negotiate in good faith.</p>			
<p>7. Have you or anyone else raised this matter in any other procedure? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, where? [see reverse] _____</p>			
<p>8. I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001. THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX #3 BY (check "x" box) <input type="checkbox"/> Fax <input checked="" type="checkbox"/> 1st Class Mail <input type="checkbox"/> In Person</p> <p><input type="checkbox"/> Commercial Delivery <input type="checkbox"/> Certified Mail</p>			
<p>Jeffrey N. Lewis</p> <p>Type or Print Your Name</p>		<p></p> <p>Your Signature</p>	
		<p>11/13/2007</p> <p>Date</p>	

Lewis v. FAA, et. al., 3:11-CV-1458-AC

July 2, 2012

Exhibit-14: 11/13/07 ULP (1p)



Barry J Davis/ANM/FAA  
12/03/2007 03:01 PM

To Teri Bristol/AWA/FAA  
cc Monique France/ANM/FAA@FAA  
bcc  
Subject Discussion with Ham

Hi Teri,

On the items that I looked into.

Data redacted pursuant to  
FOIA Exception  
5 U.S.C. § 552 (b) (7)(D)

Jeff Lewis: Andy said that he will need to check with Medical, but Jeff had until November 30, 2007 to get his medical information in for review. This information is what is provided by the psychologist that he saw recently. Andy wants to propose discipline for the previous conduct issue that led to this, and to send him over to Santa Rosa ATCT. I told Andy that we may have an issue with the timeliness.

Data redacted pursuant to  
FOIA Exception  
5 U.S.C. § 552 (b) (7)(D)

Barry J. Davis  
Senior Advisor  
Terminal Operations, Western Service Area  
Office Phone: 425-227-2155  
Fax: 425-227-2906  
Blackberry: 425-231-8991  
email: barry.j.davis@faa.gov

"Courage is grace under pressure"  
Quote by Ernest Hemingway

This document was provided by Bristol and/or Davis in early 2009, during MSPB Discovery. Unfortunately, it was concealed from Lewis by Agency Counsel (Lewis eventually obtained a copy via FOIA, 16-months after his forced retirement). It indicates that Andy Richards had planned to reassign Lewis to STS ATCT, which is consistent with all other communications by Richards from September 2007 through June 2008. Lewis' medical clearance was fully restored on 1/10/08, but he was never reassigned. Instead, in June 2008, this removal proposal was drafted, based solely on an ROI for an AB case closed a year earlier.

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
Exhibit-15: 12/3/07 Davis email (1p)





U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

San Francisco Air Traffic District  
Room 630, Terminal 2, SFIA  
San Francisco, Ca. 94128  
(650) 876-2883

July 14, 2008

Mr. Jeffrey Lewis  
28242 South Salo Road  
Mulino, OR 97042

Federal Express # 8558 1667 8985

Dear Mr. Lewis:

This is notice that I propose to remove you from your position as an Air Traffic Control Specialist, AT-2152-FH, at \$106,024 at the Concord Air Traffic Control Tower (ATCT), no earlier than thirty (30) calendar days from receipt of this notice. This proposal to remove you from the Federal government is made for such cause as will promote the efficiency of the Federal Service. The following information is presented in support of this proposed action:

**Background:** On January 20, 2007, while in the performance of your duties and in the presence of coworkers you started pronouncing words in a manner to mock the speech of African Americans. A coworker asked you to change the subject and not to talk in that manner.

On January 21, 2007, while in the presence of coworkers you made an inappropriate comment by stating "You're trying to keep a nigger down". Your coworker stated to you that he did not want to hear any more of that type of talk. Another coworker told you not to use that word in the tower ever again.

On February 6, 2007 Front Line Manager (FLM) Patricia Hardy placed you on notice that an allegation of misconduct regarding your behavior had been received and informed you that the allegation would be investigated. You then signed the Notice to the Respondent and left the office. A few minutes later you returned to Ms. Hardy's office and started yelling, demanding the notification back. When Ms. Hardy refused to give it to you, you continued to yell and then lunged at FLM Hardy. Your demeanor was aggressive and agitated. Ms. Hardy called for assistance, since she was fearful of her safety. When a coworker arrived, you continued to yell at Ms. Hardy demanding the letter back. When the coworker told you to calm down or you would get in trouble, you angrily stated we are all adults here and I can say what I want. Ms. Hardy and the coworker continued to explain that the notification was a procedure, but you would not accept that.

On February 13, 2007 during a meeting with Manager Jason Ralph and a union representative, you requested to make comments on the notification letter you were being issued. After being instructed to sign the letter or give it back, you got in Manager Ralph's face and stated in a loud voice, "What are you going to do now?" Manager Ralph placed you on administrative leave and instructed you to leave the building and not to come back the remainder of the day. You left the building and walked to your car, you then returned to Manager Ralph's office and began to bang on the door. Manager Ralph and FLM Patricia Hardy were in a closed-door teleconference with Human Resources. You began pounding on the door and yelling at Manager Ralph. Manager Ralph directed you several times to leave the building.

On February 16, 2007 following notification to Mr. Ralph that you were confronting coworkers you believed to have complained about your conduct to the Administrator's Hotline, he attempted to counsel you. While reminding you there was an ongoing investigation and you were not to interfere with witnesses or complainants to the hotline, you became hostile and approached Mr. Ralph in a vociferous and threatening manner. Mr. Ralph felt you were about to assault him, and he stepped back from your physically violent behavior, terminated the meeting and instructed you on several occasions to leave the facility. After Mr. Ralph secured his office, you again returned from your vehicle, pounded on his door and disregarded his instruction to again leave the building. Local law enforcement was called and conducted a sweep of the facility to ensure you were no longer on the premises or posed a continuing threat to the facility operations or personnel.

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**Exhibit-16: 7/14/08 Richards letter (6p)**



On March 27, 2007, Special Agent Jim Austin completed the official investigation based on Accountability Board (AB) cases # 20070097 and 20070098, regarding the alleged statements made by you on several occasions and your conduct towards management and other employees after these incidents were reported to the Administrator's Hotline.

Reason # 1: Inappropriate behavior in the workplace

Specification # 1: On January 20, 2007, while in the performance of your duties and in the presence of coworkers you started pronouncing words in a manner to mock the speech of African Americans. CPC William Marks asked you to change the subject and not to talk in that manner.

Specification # 2: On January 21, 2007, after you walked into the cab and signed in to work, CIC John Crabtree asked you to relieve him from the ground control position. You responded to John and stated, "You're trying to keep a nigger down." CPC James Swanson immediately told you, "Don't ever say that again, it is not appropriate." You then referenced a program that had that vocabulary in it. CIC John Crabtree responded and told you that he had not seen that show and you should watch something else. CIC Crabtree then stated that you should not use that word in the tower ever, ever again.

Specification # 3: On February 6, 2007 Front Line Manager (FLM) Patricia Hardy issued you a Notice to Respondent and informed you of the allegations of your use of racially derogatory language in the workplace. You signed the statements and received a copy and you then left the building. You returned to Ms. Hardy's office and started yelling demanding the notification back. Ms. Hardy told you that the notice was just to advise you that the incident was being investigated, and she then repeated several times that no conclusion had been made. You continued to yell and then lunged at FLM Hardy, and shouted, "Give me back that paper right now!" Ms. Hardy told you she was not returning the paper and called the union representative for assistance, since she was fearful of her safety. Your demeanor was aggressive and agitated. You then stated in an agitated voice that you wanted Ms. Hardy to return the signed notice stating you were not aware of any known specifics regarding the allegations. You continued to stomp around the office. When William Marks arrived he attempted to calm you down, you continued to stomp about the office, ranting and raving about how you were not being treated fairly and ignored anything that Mr. Marks or Ms. Hardy explained to you. When Mr. Marks took you outside the office and explained that if you continued your actions you would get in trouble, you angrily stated, "We are all adults here and I can say what I want!"

Specification # 4: On February 13, 2007 during a meeting with your supervisor, Patricia Hardy, Manager Jason Ralph and a union representative, regarding allegations that you had repeatedly used racially offensive language in the workplace, you became belligerent and you were placed on administrative leave for the remainder of your shift. You left the building and walked to your car, you then returned to Manager Ralph's office and began to bang on the door. As you banged on the office door, Manager Ralph and FLM Patricia Hardy were in a closed-door teleconference with Human Resources. You began pounding on the door and yelling at Mr. Ralph to open the door. Mr. Ralph instructed you several times to leave the building. CPC William Marks also heard your loud banging on the office of Manager Ralph.

Specification # 5: On February 16, 2007, management was made aware that you were confronting your coworkers attempting to find out who made the allegations against you to the Accountability Board. Manager Ralph called a meeting and directed you not to interfere with witnesses or individuals whom you believed were responsible for calling the Administrator's Hotline. You became hostile and approached Manager Ralph in a threatening manner, waving your hands and pointing in his face. Manager Ralph felt threatened and terminated the meeting, instructing you to leave his office. Manager Ralph directed you five separate times to leave the office. You then left the building and went to your car. Approximately two minutes later you returned to the facility and Manager Ralph directed you to leave the facility. You ignored his directions and returned to Manager Ralph's office and attempted to gain entry. Manager Ralph contacted local law enforcement, but a sweep of the building confirmed that you were no longer on the premises.

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**Exhibit-16:** 7/14/08 Richards letter (6p)

Specification # 6: On March 23, 2007, during an official investigation conducted by Special Agent Jim Austin when asked had you ever spoken in a manner to mimic someone who is African American, you stated, "Yes, you had mimicked two people, but only one who was African American and his ethnicity had nothing to do with the mimicry." You stated that you were mimicking James who mimics Jason. You added that you would also mimic Ken Moyer's mumbling habit, hoping Ken would recognize the annoyance and correct his habit.

Reason # 2: Insubordination or refusal to carry out orders.

On February 16, 2007, after you became hostile Manager Ralph ordered you five separate times to leave his office. You then left the building and went to your car. Approximately two minutes later you returned to the facility and Manager Ralph again ordered you to leave the facility. You ignored his orders and returned to Manager Ralph's office and attempted to gain entry. Manager Ralph contacted local law enforcement, but a sweep of the building confirmed that you were no longer on the premises.

Reason # 3: Providing misleading information during an official investigation.

Specification # 1 On March 23, 2007, during an official investigation conducted by Special Agent Jim Austin, when asked, "Did you make a statement similar to, "they're trying to hold us niggers down?" You stated "No." You then stated, "As for similarity the reference is to a lyric I quoted from a Randy Newman song called "Rednecks". You then explained your comment was made during a Sunday morning discussion with John and James whose comments were likening ATC training to hazing that goes on in fraternities and you stated during this conversation, "Yeah, it's like the lyric in Randy Newman's song, keeping the niggers down...the CPC's have a chance to assert their pecking order, so step on the trainees."

Specification # 2: When asked by Agent Austin if anyone told you that type of speech was inappropriate and tell you to stop speaking in that manner? You stated, "No, absolutely not." You then stated that the night before the 1/21/2007 incident James had set up his PC on the LC console with a DVD called Boondocks. You watched the Boondocks DVD with him for an hour or so and heard the n-word used a dozen times in a couple of animated lyrics. You stated you would not have felt a reference to Randy Newman's lyric would be acceptable had you not shared this DVD with James and Andrew.

Specification # 3: When asked by Agent Austin if you made a statement similar to, "How are all you niggers doing? You stated, "No, and this is unbelievable how made up these allegations are."

Specification # 4: When asked by Agent Jim Austin, after Patricia Hardy had you sign a letter advising you of the investigation, if you returned to the tower demanding the letter back and yelled at Patricia Hardy, you stated, "I demanded nothing." You stated you explained again your concern about writing a blank check with your signature and you asked to return it so you could annotate or allow you to provide a statement. You stated again that you did not yell at her, you were concerned what the investigation was about and all you knew was it was about using the "n" word.

Specification # 5: When asked by Agent Austin, "Did Patricia Hardy call Bill Marks to the office to intervene and calm you down?" You stated to your knowledge you thought Bill was being called on the basis of a Weingarten meeting.

Specification # 6: When asked by Agent Austin during the February 16<sup>th</sup> meeting with Mr. Ralph, "Did you approach Mr. Ralph and shout and poke your fingers towards his face?" You stated, "No, we were standing and having a discussion." You added that during this discussion you pointed out that Mr. Ralph was turning up the corners of his mouth starting to smile and you wanted him to be aware of his mixed signal, during a very serious conversation.

Specification # 7: When asked by Agent Austin, "Did Mr. Ralph tell you to stop pointing your finger towards his face? You stated, "Absolutely no", especially as you did not continue to point. When asked

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did you continue to shout at him and shake your hand toward his face? You stated, "No, I made the comment about his turning up the corners of his mouth and that was it."

Specification # 8: When asked by Agent Austin, "After this meeting did Mr. Ralph tell you to leave the building?" You stated, "No, you asked for sick leave and Jason granted it and you left the building."

Specification # 9: When asked by Agent Austin, "After leaving the building did you return and knock on Mr. Ralph's door and start shouting at him? You stated that you did come back to get your cell phone and water bottle. You ran up the stairs past Jason's office. You stated that Jason sounded alarmed when he yelled through his locked door to not go upstairs. You stated that you only replied that you were getting your cellphone and you kept going, quickly. You passed by his door on the way down less than 15 seconds later and you did not knock on Jason's door, and you did not make any attempt to talk to Jason about the previous conversation.

Employees are expected to approach their duties in a professional and business like manner and maintain such an attitude throughout the workday, by exercising courtesy and tact at all times. Employees are also expected to provide complete and truthful information. The inappropriate conduct you exhibited severely impacts the Agency's mission of creating a productive and hospitable work environment. You used inappropriate language and you were confrontational to both peers and management. You failed to follow and chose to ignore the direction to leave the facility. You also provided misleading information during an official investigation. This has had an affect on the employee/employer relationship and a negative impact to employee morale, which is a hindrance to aviation safety. Your conduct seriously degrades this relationship and trust and your inappropriate behavior in the workplace will no longer be tolerated.

In selecting the proposed penalty, I have taken into consideration the following factors:

1. You are required to observe and abide by all laws, rules, regulations and other authoritative policies and guidance, written and unwritten. Employees will familiarize themselves with the Standards of Conduct contained in the Human Resources Policy Manual (HRPM), as well as, the Standards of Ethical Conduct for Executive Branch Employees, 5 CFR Part 2635, transmitted by FAA Order 3750.7, Ethical Conduct and Financial Disclosure (Appendix 1 thru 5; Appendix 6, Standards of Ethical Conduct.
2. You were briefed at least once annually on the HRPM Standards of Conduct, ER 4.1, which includes the employee responsibilities, and also on the FAA Table of Disciplinary Offenses and Penalties. As such, you were aware that it is the policy of the FAA to assure an environment free of intimidation and inappropriate language in the workplace and that all employees are expected to exercise courtesy and tact at all times.
3. The Standards of Conduct contained in the Human Resources Policy Manual (HRPM) ER-4.1, state in relevant part, "9. 1) Giving Statements and/or Testimony: It is the duty and requirement of every employee to give, orally and/or in writing as directed, to any supervisor or DOT official conducting an investigation, inquiry or hearing in the interest of the agency, complete and truthful information and testimony pertaining to all matters in which queried.
4. The Standards of Conduct contained in the Human Resources Policy Manual (HRPM) ER-4.1, state in relevant part, "2. Employee Responsibilities: All employees are responsible for conducting themselves in a manner, which will ensure that their activities do not reflect discredit on the Federal Government and FAA.... Exercise courtesy and tact at all times in dealing with fellow workers, supervisors, contract personnel and the public. Support and assist in creating a productive and hospitable work environment.
5. The Standards of Conduct contained in the Human Resources Policy Manual (HRPM) ER-4.1, state in relevant part, "2c. Employees must observe the following basic on the job rules, to

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Exhibit-16: 7/14/08 Richards letter (6p)

respond promptly to and fully comply with directions and instructions received from their supervisor or other appropriate management official.

6. The Standards of Conduct contained in the Human Resources Policy Manual (HRPM) ER-4.1, state in relevant part, "12. Defamatory or Irresponsible Statements: While FAA encourages freedom of expression, employees are accountable for the statements they make and the views they express. Employees shall not make irresponsible, false, disparaging, disrespectful or defamatory statements, which attack the integrity of other individuals or organizations, or disrupt the orderly conduct of official business, nor may they make statements urging or encouraging other employees to act or speak irresponsibly, or to commit unlawful acts.
7. The Standards of Conduct contained in the Human Resources Policy Manual (HRPM) ER-4.1, state in relevant part, "13. Violent, threatening, harassing and /or confrontational behaviors in any form are unacceptable and will not be tolerated. Threatening behavior may include harassment in the form of intimidation, or any oral and/or written remarks or gestures that communicates a direct or indirect threat of physical harm or otherwise frightens, or causes individual concern for their personal safety. Such irresponsible and inappropriate behavior may include pushing, poking, physically crowding, stalking, fist shaking, throwing objects regardless of the target of the object being thrown, name calling, obscene language or gestures, or any other intimidating or abusive action which creates a fearful environment and apprehension of harm.
8. This proposed disciplinary action is consistent with the Table of Penalties in FAA's Human Resources Operating Instructions (HROI), and the Human Resources Policy Manual (HRPM). Under the Table of Penalties cited above, Reason # 2 alone could warrant removal for a first offense, Reason # 3 alone could warrant removal for a first offense, and Reason #1 standing alone could warrant a 14-day suspension for a first offense. Collectively your offenses as cited above certainly warrant your removal to promote the efficiency of the service.
9. As an Air Traffic Controller you have a significant responsibility for the lives and property of others. The trust of the flying public depends on absolute confidence in the integrity of the FAA in our oversight of air transport facilities. Providing false and/or misleading statements during investigations strikes to the heart of the employee-employer relationship, undercuts management's ability to make informed decisions based on fact, and diminishes the public's confidence in the integrity of our work product.
10. Your unacceptable behavior at the facility, your failure to follow directives and your subsequent false and/or misleading statements regarding your behavior shows a disregard for FAA rules and regulations. Consequently, you have eroded the trust the FAA and your managers had placed in you. The egregiousness and repetitive nature of your offenses causes me to believe that a lesser penalty would not be effective.
11. On March 23, 2006 you signed and initialed a "Privacy Act and Employee/Contractor Information Acknowledgement" which clearly put you on notice of your obligation to cooperate and to provide truthful information during the course of an investigation. The document also clearly put you on notice of the potential consequences for failing to be truthful.
12. Your disparaging and unwarranted comments reflects poorly on you and the Agency and holds the potential for harm to others and liability for the Agency.
13. I have considered your 19 years of federal service and overall work record as mitigating factors. However, your long-term tenure and performance does not mitigate my decision on this level of action.
14. Your many years of service do not outweigh the seriousness of your misconduct. Therefore, proposing your removal is the only action that I can take that will promote the efficiency of the federal service.

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Exhibit-16: 7/14/08 Richards letter (6p)

You may respond to me personally, and /or in writing, within fifteen (15) calendar days from receipt of this proposal. You may furnish affidavits and other documentary evidence in support of your reply. You may be accompanied or advised by a representative of your choosing. Your representative, if an FAA employee, may be disallowed if a conflict of interest exists or because of operational demands. Should this occur, you will be allowed a reasonable amount of time to select another representative. Your representative if any must be designated in writing.

Attached is the material relied upon in support of this proposal. In order to receive a copy of the Report of Investigation (ROI) you must submit a written request to Western Pacific Regional Office, AWP-750, 15000 Aviation Blvd, Room 2017, Lawndale, California 90261. If otherwise in a duty status, you may be authorized up to 16 hours of excused absence to review the material and prepare a reply. This time must be requested and approved by me in advance. Full consideration will be given to any reply that you make and you will be furnished with a written notice of decision as soon as possible after receiving your reply or after expiration of the allowed time for reply.

The FAA has a free, confidential Employee Assistance Program (EAP) specifically designed to assist employees and/or members of their family to effectively deal with the challenges faced in daily life. You may seek assistance through this confidential program by contacting the 24-hour EAP Hotline at 1-800-234-1327 or visiting the EAP website at [www.magellanhealth.com](http://www.magellanhealth.com).

If you need help understanding this notice or your rights, you may contact Rosslyn Marable, Employee Relations Specialist at (310) 725-7865, AWP-16.


Sincerely,



Andy Richards  
District Manager, SFO ATCT

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**Exhibit-16:** 7/14/08 Richards letter (6p)



Re: Jeff Lewis grievance.   
Glen A Rotella to:

07/17/2008 10:14 AM

Cc: "Hamid \"Ham\" Ghaffari", "Ham Ghaffari", "Mike Hull"

Ham and Mike,

I am out of the office today and will supply you with a copy of Mr. Lewis's grievance tomorrow. Sorry I did not get it to you sooner. I am also extending the time frame for elevation due to Mr. Lewis not being at work and my delay in getting you a copy of the grievance. (unless this is not exceptable to you)  
I know there are some understandable differences between between you guys however, if ever there were someone in need of representation and your professional advise it is Mr. Lewis. He has been on admin. leave for way over a year with almost no communication from the Agency. Now he receives a proposed removal based on stuff that occurred more that a year and a half ago.  
Please forgive me for sticking my nose in your business but my Union blood sometimes overrides my professional responsibility.  
Glen Rotella  
AWP-16

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**Exhibit-17:** 7/17/08 Rotella email (1p)

SOURCE: F/1-0273, p. 236 recd. 1-27-11





**Re: Request status of your removal proposal, and request a current performance appraisal**  
**Jeff Lewis** to: Andy Richards

08/03/2008 11:15 PM

History: This message has been forwarded.

Hi Andy,

Thanks for the email reply. It is late Sunday and I have not received your certified letter yet, though I should get it in the next couple days.

When I do receive "the information", if you are continuing your proposal to remove me, you can expect me to produce a detailed reply without delay.

For what it is worth, the first run of your removal proposal, the letter you FedExed to me, had some serious problems. Aside from the fact that you were citing non-factual allegations that were commonly contradicted within the apparent source-ROI, your letter also scrambled details from numerous false allegations, creating "specifications" not supported by documentation.

Also, Andy, can you please explain, given that the detailed reasons and specifications within your proposal to remove me were based on allegations and investigations conducted before April 2007, why were these details not shared with the PhD psychologist Jason Ralph ordered me to see under threat of discipline? The doctor needed this information in April 2007, and specifically requested this information in the followup in December 2007, but he was denied any written documentation from FAA. So, Andy, can you explain this to me?

In closing, please also advise when I can expect a performance appraisal; I do not know any other FAA employees who have been denied a performance appraisal for over two years

Thanks, Jeff

----- Original Message -----

From: "Andy.Richards@faa.gov" <Andy.Richards@faa.gov>

To: Jeff Lewis <lsjef@yahoo.com>

Sent: Friday, August 1, 2008 10:33:53 PM

Subject: Re: Request status of your removal proposal, and request a current performance appraisal

The information went out today by certified mail. I will get back to you on your performance appraisal. Andy

----- Original Message -----

From: Jeff Lewis [lsjef@yahoo.com]

Sent: 08/01/2008 10:08 PM

To: Andy Richards/AWP/FAA@FAA

Subject: Request status of your removal proposal, and request a current performance appraisal

Andy:

I received this email from you on 7/22, in which you stated I would be provided "...requested information this week". Ten days later, I have received no further letters or emails from you. Please update.

Also, can you please provide a current performance appraisal (by mail, or printable email attachment) for bidding purposes? My last performance appraisal was done more than two years ago, a problem that needs to be corrected.

Thanks.

Jeff

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Exhibit-18: 8/3/08 Lewis email (1p)





**Fw: Request status of your removal proposal, and request a current performance appraisal**

**Andy Richards**

to: Clemortee R Marable

08/04/2008 12:29 PM

TWM-SFO, San Francisco ATCT, CA



FYI. Andy

Andy Richards  
District Manager - San Francisco ATCT District  
San Francisco International Airport  
Terminal 2, Room 630  
San Francisco, CA 94128  
650 876-2883 ext. 109 cell 650 826-0158

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**Exhibit-19**: 8/4/08 Richards email (1p)

----- Forwarded by Andy Richards/AWP/FAA on 08/04/2008 12:29 PM -----



**Jeff Lewis** <lsjef@yahoo.com>

08/03/2008 11:15 PM

To Andy Richards/AWP/FAA@FAA

cc

Subject Re: Request status of your removal proposal, and request a current performance appraisal

Hi Andy,

Thanks for the email reply. It is late Sunday and I have not received your certified letter yet though I should get it in the next couple days.

When I do receive "the information", if you are continuing your proposal to remove me, you can expect me to produce a detailed reply without delay.

For what it is worth, the first run of your removal proposal, the letter you FedExed to me, had some serious problems. Aside from the fact that you were citing non-factual allegations that were commonly contradicted within the apparent source-ROI, your letter also scrambled details from numerous false allegations, creating "specifications" not supported by documentation.

Also, Andy, can you please explain, given that the detailed reasons and specifications within your proposal to remove me were based on allegations and investigations conducted before April 2007, why were these details not shared with the PhD psychologist Jason Ralph ordered me to see under threat of discipline? The doctor needed this information in April 2007, and specifically requested this information in the followup in December 2007, but he was denied any written documentation from FAA. So, Andy, can you explain this to me?

In closing, please also advise when I can expect a performance appraisal; I do not know any other FAA employees who have been denied a performance appraisal for over two years

Thanks, Jeff

----- Original Message -----

From: "Andy.Richards@faa.gov" <Andy.Richards@faa.gov>

To: Jeff Lewis <lsjef@yahoo.com>

Sent: Friday, August 1, 2008 10:33:53 PM

Subject: Re: Request status of your removal proposal, and request a current performance appraisal

The information went out today by certified mail. I will get back to you on your performance appraisal. Andy



**Request copy of an email you sent last Fall**  
**Jeff Lewis** to: Andy Richards

08/07/2008 05:22 PM

**Please respond to lsjef**

Andy,

Hate to bother you but you have put me in a difficult place where it is critical I get needed information

Last Fall, you and I had a devil of a time trying to get me a FOIA-requested copy of the ROI that was sent to your office on 4/2/2007. I recently learned the delay was precipitated not by Security, but by Air Traffic, in that they could not release until action had been taken against me. AWP-750 advised me of an email received 9/5/07, in which it was noted I had been "admonished".

Did you send this email, and can you immediately send me a copy by email?

If you did not, can you find out who did send it, and forward an email copy?

More soon...

Thanks, Jeff

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**Exhibit-20: 8/7/08 Lewis 5:22PM email (1p)**



**Re: Request copy of an email you sent last Fall**  
**Andy Richards** to: lsjef

08/07/2008 05:25 PM

Jeff- i won't be back in the office until monday and i can't retrieve it until then. My blackberry doesn't have the archive stuff. I'll look monday morning and get back to you. Andy

----- Original Message -----

From: Jeff Lewis [lsjef@yahoo.com]

Sent: 08/07/2008 05:22 PM

To: Andy Richards/AWP/FAA@FAA

Subject: Request copy of an email you sent last Fall

Andy,

Hate to bother you but you have put me in a difficult place where it is critical I get needed information

Last Fall, you and I had a devil of a time trying to get me a FOIA-requested copy of the ROI that was sent to your office on 4/2/2007. I recently learned the delay was precipitated not by Security, but by Air Traffic, in that they could not release until action had been taken against me. AWP-750 advised me of an email received 9/5/07, in which it was noted I had been "admonished".

Did you send this email, and can you immediately send me a copy by email?

If you did not, can you find out who did send it, and forward an email copy?

More soon...

Thanks, Jeff

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**Exhibit-21:** 8/7/08 Richards email (1p)



**Open communications are essential to good business**

**Jeff Lewis** to: Andy Richards

08/07/2008 10:24 PM

Andy,

Thanks for the reply. It looks like you can send me a copy on Monday, so I'll expect it.

I plan to pick up the certified letter tomorrow...I assume that will be the day your 15-day clock starts for my reply, right?

Given the incredible delays I have experienced from FAA in FOIA requests (most of which are still not finished) and getting the ROI last Fall (six months after I should have gotten it), can you entertain being more reasonable about your clock-start-date so I can get the necessary documentation? I am particularly concerned about the incomplete FOIAs from last September for Gwen Marshall (copies of the other contents of the Accountability Board Case Files), Dr. Goodman (copies of his notes from teh 2/16 telecon Jason Ralph initiated, plus all other undisclosed notes/documents that would support the slanderous 6/7/07 memo that ended up in my secure personal medical file), and a list of and notes from all participants at the 2/16/07 Violence in the Workplace (ViWP) telecon Jason initiated. Your first proposal, two weeks ago, made me realize you read the ROI quite differently than I do, so I am now working feverishly to get FOIA answers that a few weeks ago I thought were not necessary (at that time, I thought someday I would hear from you my Return to Work Plan).

Anyway, it is quite evident, from the ROI and from the history these past eighteen months, that Jason slandered me at the ViWP telecon and the evidence needs to be brought forward...which would shed a necessary light of truth onto the many conflicting testimonies in the ROI that you are misapplying toward my proposed firing. So, again, is it possible you could entertain a little additional time and maybe some real cooperative assistance so we can move past the bureaucratic delays and lay out the facts...and finally find the truth in this case?

One last question, I assume from past experience that you have been keeping Records of Conversation for our interactions since last September, as I learned to do years ago

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**Exhibit-22: 8/7/08 Lewis 10:24PM email (2p)**

(when dealing with hostile reprisal at my first ATC facility). You may know from our discussions that I had serious problems with the gross inaccuracies of the RoC's and memos that Patricia Hardy and Jason Ralph were in the habit of creating and intimidating me into signing. If you were not aware of this, let me know and I'll email a few samples and notes. Anyway, I learned long ago, a good work environment needs good leadership and no intimidation and, especially, open communications, all of which were seriously absent at Concord. So, at this critical juncture in the process of trying to clean up this mess, would you like to exchange Records of Conversation and make sure we are understanding the other's position? I've attached a sample of some of my notes, a chronology of mostly the phone calls extracted from last Fall...the final weeks of my LWOP status to the point in time when Aeromedical finally agreed to their responsibility to pay for my psych eval (the second one, at least; they are still trying to see the light on round one, which was badly complicated by the liberties Jason took in February 2007). It also includes the process of you retroactively putting me on admin leave, and making the final offer to me of a medical disability, a month after my diagnosis was suspended at my request.

Initially, I had intended to provide you with notes from just a couple of our key conversations, but I noticed while extracting these notes that the other notes really help illustrate the hellacious emotional rollercoaster I was experiencing at the time. Unlike the RoCs produced by Patricia Hardy and Jason Ralph, these notes are factual. If you disagree with any of the notes I have recorded from our conversations, please provide an explanation of your disagreement and a copy of your own record of conversation.

I look forward to hearing from you, and getting a copy of the 9/5/07 email, too. And, that Performance Appraisal as soon as you can.

Thanks, J

----- Original Message -----

From: "Andy.Richards@faa.gov" <Andy.Richards@faa.gov>  
To: lsjef <lsjef@yahoo.com>  
Sent: Thursday, August 7, 2008 5:25:27 PM  
Subject: Re: Request copy of an email you sent last Fall

Jeff - i won't be back in the office until monday and i can't retrieve it until then. My blackberry doesnt have the achive stuff. I'll look monday morning and get back to you. Andy

----- Original Message -----

From: Jeff Lewis [lsjef@yahoo.com]  
Sent: 08/07/2008 05:22 PM  
To: Andy Richards/AWP/FAA@FAA  
Subject: Request copy of an email you sent last Fall

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-22:** 8/7/08 Lewis 10:24PM email (2p)


F11-0319WS  
Rcvd 4/25/11



Re: Open communications are essential to good business  
 Andy Richards

to:

Jeff Lewis

08/08/2008 08:17 AM 

Show Details

Yes

----- Original Message -----

From: Jeff Lewis [lsjef@yahoo.com]

Sent: 08/07/2008 10:24 PM MST

To: Andy Richards

Subject: Open communications are essential to good business

F11-0319WS  
 Rcvd 4/25/11

Andy,

Thanks for the reply. It looks like you can send me a copy on Monday, so I'll expect it.

I plan to pick up the certified letter tomorrow...I assume that will be the day your 15-day clock starts for my reply, right?

Given the incredible delays I have experienced from FAA in FOIA requests (most of which are not yet finished) and getting the ROI last Fall (six months after I should have gotten it), can you expect me to be more reasonable about your clock-start-date so I can get the necessary documents? I am particularly concerned about the incomplete FOIAs from last September for Gwen Marsh (the other contents of the Accountability Board Case Files), Dr. Goodman (copies of his notes from the 2/16 telecon Jason Ralph initiated, plus all other undisclosed notes/documents that would support the slanderous 6/7/07 memo that ended up in my secure personal medical file), and a list of and notes from all participants at the 2/16/07 Violence in the Workplace (ViWP) telecon Jason initiated. Your first proposal, two weeks ago, made me realize you read the ROI quite differently than I do, so I am now working feverishly to get FOIA answers that a few weeks ago I thought were not necessary (at that time, I thought someday I would hear from you my Return to Work Plan).

Anyway, it is quite evident, from the ROI and from the history these past eighteen months, that Jason slandered me at the ViWP telecon and the evidence needs to be brought forward...which would shed

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
 July 2, 2012  
 Exhibit-23: 8/8/08 Richards email (1p)

673

file:///C:/Temp/notes/7A056/aveh5594.htm

11/18/2010

Re: Request copy of an email you sent last Fall  
Jeff Lewis

to:

Andy Richards

08/11/2008 01:11 PM

Show Details

History: This message has been replied to.  
Andy,

Still no email with that requested copy. Please advise.

Also, on Saturday I received notification that I am on the Selection List for the TMC openings at ZOA. I am concerned how the history of the HWE situation at CCR, and your present proposal, may impact my potential selection. Can you assure me my potential selection will not be undermined? Is Dennis Sullivan (back at ZOA, after the problems on this case through the summer of 2007) possibly sitting in on the selections? From my 21-years experince, if you were my supervisor in actuality, and without Jason's cloud of allegation hanging over me, you would likely encourage me to arrange a visit or interview if advantageous. So, as your subordinate on a selection list, is there anything I need to know about these openings and this bid...that you can advise me on?

Lastly, I was so busy on Friday (the first day the USPS said I could pick up my certified letter) with calls re: your removal proposal, I never did get to the PO. And I am still quite busy. I will call the PO and ask they attempt delivery again tomorrow. If you still need a reply-start-date, I am agreeable to accepting 8/8 or 8/9, provided the contents is the same as your FedEx'd proposal letter, ...though I still need you to reply on my earlier request for extension to allow for critical documents not sent yet in response to my 9/2/07 FOIA to the AB HR POC (Gwen).

Later, Jeff

— Original Message —

From: "Andy.Richards@faa.gov" <Andy.Richards@faa.gov>  
To: lsjef <lsjef@yahoo.com>  
Sent: Thursday, August 7, 2008 5:25:27 PM  
Subject: Re: Request copy of an email you sent last Fall

Jeff - i won't be back in the office until monday and i can't retrieve it until then. My blackberry doesnt have the achive stuff. I'll look monday morning and get back to you. Andy

— Original Message —

From: Jeff Lewis [lsjef@yahoo.com]  
Sent: 08/07/2008 05:22 PM  
To: Andy Richards/AWP/FAA@FAA  
Subject: Request copy of an email you sent last Fall

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012

**Exhibit-24:** 8/11/08 Lewis 1:11PM email (1p)


F11-0319WS  
Rcvd 4/25/11

676

file:///C:/Temp/notes/C7A056/~web3257.htm

11/18/2010



**Re: Request copy of an email you sent last Fall**   
**Andy Richards** to: Jeff Lewis  
 TWM-SFO, San Francisco ATCT, CA

08/11/2008 02:06 PM

Jeff, I do not have a copy of the e-mail from 9/5/2007 in my achives. Sorry.

I am not the selecting official so I have no idea how your present proposal will effect your ability to obtain the potential selection on your bid.

I am not aware of the selction process at ZOA for the TMC opening. Since the TMC position resides in Systems Operations, and Dennis in in En Route Operations, Dennis Sullivan will not be the selecting official. I believe Dave Foyle is the selecting Official,

The contents or the same -- let's go with 8/9 as the start date.

Andy

Andy Richards  
 District Manager - San Francisco ATCT District  
 San Francisco International Airport  
 Terminal 2, Room 630  
 San Francisco, CA 94128  
 650 876-2883 ext. 109 cell 650 826-0158

Jeff Lewis <lsjef@yahoo.com>



Jeff Lewis <lsjef@yahoo.com>

08/11/2008 01:11 PM

To Andy Richards/AWP/FAA@FAA

cc

Subject Re: Request copy of an email you sent last Fall

Andy,

Still no email with that requested copy. Please advise.

Also, on Saturday I received notification that I am on the Selection List for the TMC openings at ZOA. I am concerned how the history of the HWE situation at CCR, and your present proposal, may impact my potential selection. Can you assure me my potential selection will not be undermined? Is Dennis Sullivan (back at ZOA, after the problems on this case through the summer of 2007) possibly sitting in on the selections? From my 21-years experince, if you were my supervisor in actuality, and without Jason's cloud of allegation hanging over me, you would likely encourage me to arrange a visit or interview if advantageous. So, as your subordinate on a selection list, is there anything I need to know about these openings and this bid...that you can advise me on?

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
 July 2, 2012  
 Exhibit-25: 8/11/08 Richards email (1p)

F11-0319WS  
 Rcvd 4/25/11

Re: Request copy of an email you sent last Fall  
Jeff Lewis

to:

Andy Richards



08/11/2008 02:26 PM

Show Details

Andy,

No copy, huh? OK. Then how about three simple questions...

*Who sent Mr. Giles that email saying I had been admonished?*

*What do you recall was said in it?*

*How can I obtain a copy at least a few days prior to your 15-day deadline?*

Jeff

----- Original Message -----

From: "Andy.Richards@faa.gov" <Andy.Richards@faa.gov>

To: Jeff Lewis <lsjef@yahoo.com>

Sent: Monday, August 11, 2008 2:06:39 PM

Subject: Re: Request copy of an email you sent last Fall

Jeff, I do not have a copy of the e-mail from 9/5/2007 in my achives. Sorry.

I am not the selecting official so I have no idea how your present proposal will effect your ability to obtain the potential selection on your bid.

I am not aware of the selction process at ZOA for the TMC opening. Since the TMC position resides in Systems Operations, and Dennis in in En Route Operations, Dennis Sullivan will not be the selecting official. I believe Dave Foyle is the selecting Official,

The contents or the same -- let's go with 8/9 as the start date.

Andy

Andy Richards  
District Manager - San Francisco ATCT District  
San Francisco International Airport  
Terminal 2, Room 630  
San Francisco, CA 94128  
650 876-2883 ext. 109 cell 650 826-0158

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-26:** 8/11/08 Lewis 2:26PM email (1p)

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Rev'd 4/25/11

680

**Phone Notes: calls to Andy Richards and Kathryn Vernon**

8/14, 1452..call back from Andy Richards. He gave me 8/24 as my firm deadline. Refuses to change that deadline. I asked him about the "return to work plan" in his 4/17 letter, and what happened between then and his removal proposal mid-July. He said he had been working on the removal proposal at the time in April...and I pointed out, how can that make sense, you told me I would be hearing from you with a return to work plan while you were working on my removal? He did not want to talk, so we quit. I then asked who his superior is and he said Katherine (sp?) Vernon, who replaced Teri Bristol. I asked; phone 425-203-4041. Said I have no Performance Appraisal because I have no performance.

8/14, 1503..called Katherine(sp?) Vernon, left voicemail. Stated who I am, that I have been ATC for nearly 22 years, spent four months at CCR a year and a half ago and am currently calling her after her subordinate, Andy Richards, gave me her number as I need to talk to his superior. Andy has proposed my removal based on an ROI from sixteen months ago that is loaded with false information and has not been substantiated. I asked her to call back so I can get the info I need to help Andy to avoid making this egregious mistake.

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-27: 8/14/08 phone notes (1p)**





**Lewis removal**

**Andy Richards**  
TWM-SFO, San Francisco ATCT, CA

to: Kathryn Vernon, Dave Adams,  
Monique France

08/14/2008 03:08 PM

Here's the proposed removal that we issued the employee. I will give you and Dave the details in DC. He will probably be calling you shortly. Thanks. Andy



Lewis Removal Proposal2.doc

Andy Richards  
District Manager - San Francisco ATCT District  
San Francisco International Airport  
Terminal 2, Room 630  
San Francisco, CA 94128  
650 876-2883 ext. 109 cell 650 826-0158

*\* see 6-page copy @ 7/14/08  
(EXH. 16)*

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-28:** 8/14/08 Richards email (1p)

F11-0319WS  
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**Fw: Email written before our conversation today, amended to incorporate what you said...**

**Andy Richards**

to: Clemortee R Marable

08/15/2008 08:58 AM

TWM-SFO, San Francisco ATCT, CA

Andy Richards  
District Manager - San Francisco ATCT District  
San Francisco International Airport  
Terminal 2, Room 630  
San Francisco, CA 94128  
650 876-2883 ext. 109 cell 650 826-0158

----- Forwarded by Andy Richards/AWP/FAA on 08/15/2008 08:58 AM -----



**Jeff Lewis <lsjef@yahoo.com>**

08/14/2008 06:09 PM

To Andy Richards/AWP/FAA@FAA

cc

Subject Email written before our conversation today, amended to incorporate what you said...

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-29: 8/15/08 Richards email#1 (3p)**

Andy,

Please accept this email as the first part of my reply to your proposed removal. This is not my complete reply. I am asking you for further documentation and clarification on a few points and, upon hearing back from you, I hope to be able to provide you with the remainder of my "reply" to your removal proposal.

This is a huge job you have tasked me with – digesting a crazy year and a half of an astonishing story of bureaucratic waste, fraud and abuse, initiated by one rogue manager – and, somehow, in fifteen quick days, drafting a factual reply sufficient to compel you to reverse your proposal to remove me. The task is made more daunting by the lack of factual documentation that has been denied me since, well, forever...despite my FOIA requests, a few grievances, and my many letters and emails, which make up much of the 4" stack of papers I have accumulated. I even have two critical FAA HQ appeals for FOIA review made on 11/15/07 that I just recently received a reply to...that their office is horribly backlogged yet hopes to respond by 10/31/08. It is simply crazy; everyone I talk to is amazed and astonished that this could be going on in the FAA. It doesn't help, too, that we are at the peak of vacation season, so many of the FAA managers and other personnel I need to obtain documentation from are not even available. I suspect you, too, would prefer we fully clean this up now, so that a mistake is avoided and lawyers do not become entangled in an MSPB process. Anyway, we'll just have to see what I can produce.

So that I may fairly respond in these quick fifteen days, please reply ASAP by email with answers to the following questions:

1. Andy, a frank answer please...are you able to and will you recant your proposal if I offer a compelling rebuttal, or am I just spinning my wheels?
2. [NOTE, 8/14: I was going to ask you to confirm, as suggested by the contents of the proposal letter, is the ROI the only source document used to support your proposed adverse

F11-0319WS  
Rev'd 4/25/11

action? You confirmed this in our phone conversation earlier today.]

3. Andy, can you please explain (as I requested in my email to you on 8/3/08), given that the detailed reasons and specifications within your proposal to remove me were based on an ROI completed in March 2007, why were these details not shared with the PhD psychologist that Jason Ralph ordered me to see under threat of discipline? The doctor needed this information in April 2007, and specifically requested this information in the followup in December 2007, but he was denied any written documentation from FAA.

4. Also, can you please explain this expensive emotional rollercoaster you have run me through? You could have issued your proposal letter in early April 2007, within ten days from receipt of the ROI, but instead you waited 450+ days. During those 450+ days, I was twice psychologically evaluated, forced to involuntarily burn 700 hours of sick leave and annual leave, placed into an LWOP status for nine weeks (all of which was paid back, except for 101-hours), offered a medical disability retirement, even promised a return to work plan, only to have you later come back and propose to fire me. The absurdity of all the stress, and the money spent by myself and by our FAA is beyond believable. So, Andy, can you explain this extraordinary delay? [NOTE, 8/14: in our phone discussion earlier today, I asked you what happened between the 4/17 letter promising a return to work plan and the letter proposing removal three months later; you said you had been working with HR on my removal, at the time you sent your letter mentioning a "return to work plan"; I said this makes no sense to me and asked you to explain, and you just wanted to end the call. Andy, I hope you recognize there is a serious trust issue here]

5. What date are you setting as the deadline for my sending you my response to your proposal to remove (the copy dated 7/28/08)? [NOTE, 8/14: you said in our phone call today I have to have the reply to you by 8/24. You also said that date was not changeable.]

6. yes or no: are you willing to delay the start of your 15-day deadline for a brief period, so that you and I can work together to obtain the final documents and data needed to fully address the proposal? If so, I would provide you with letters so that you could apply your authority (or, if necessary, perhaps you can refer me to the appropriate FAA authority?) to expedite disclosure of necessary documentation to fully close the FOIA requests from last year. These include: Dr. Goodman's notes from the 2/16 Violence in the Workplace (ViWP) telecon plus his other notes and source documents behind his decision to decertify me; a list of all participants in the 2/16 ViWP telecon, and copies of all their notes; copies of all documents added to the ROI Investigative Case File; and copies of all documents in both case files held by Gwen Marshall (as Accountability Board HR POC, per Order 1110.125A, para 15e(6)).

Just to put this in perspective, please understand, Andy, I had no idea until just four weeks ago that you or anyone actually believed any of the ROI. It was completed sixteen months ago, I was provided a copy ten months ago, and nobody ever opined as to its veracity or asked me for a point-by-point rebuttal. Frankly, I have always assumed it was a big embarrassment, that so much expense had been applied toward the production of so much rubbish...that this embarrassment was why I had to wait so long for a copy, and why no serious actions had followed as I awaited my return to work. With my FAA career on the line, I must apologize that I really have no choice but to ask one more time (and hopefully, this will be the last time) for these documents that clearly exist per current FAA Orders.

For the moment, I will overlook the odd impropriety of your using a 3/27/07 ROI and waiting

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Exhibit-29: 8/15/08 Richards email#1 (3p)

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sixteen months to propose an adverse action. I'll overlook that for the sake of suggesting, might it be wiser, in the interest of FAA efficiency, for us to work together for the next couple weeks, to efficiently obtain necessary documentation that will allow us, finally, to clean up this mess? One last note, Andy. Please send a copy of your notes from our phone conversation earlier today. I await your reply.  
Jeff

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-29:** 8/15/08 Richards email#1 (3p)

F11-0319WS  
Rcvd 4/25/11



**Fw: Request specifics and substantiation on reason #3 of your proposal**

**Andy Richards**

to: Clemortee R Marable

08/15/2008 08:58 AM

TWM-SFO, San Francisco ATCT, CA

Andy Richards  
District Manager - San Francisco ATCT District  
San Francisco International Airport  
Terminal 2, Room 630  
San Francisco, CA 94128  
650 876-2883 ext. 109 cell 650 826-0158

----- Forwarded by Andy Richards/AWP/FAA on 08/15/2008 08:58 AM -----



**Jeff Lewis** <lsjef@yahoo.com>

08/14/2008 06:16 PM

To Andy Richards/AWP/FAA@FAA

cc

Subject Request specifics and substantiation on reason #3 of your proposal

Andy,

One additional request. Reason Three of your proposal for my removal provides a series of "Specifications", all of which are truthful statements I submitted under oath while being interviewed 3/22/07 (500 days ago!?) by Agent James Austin. Your "reason" claims I provided misleading testimony; thus, it appears you are alleging I provided false statements to Agent Austin. Please be more specific. Please provide the specific "misleading statement" you are alleging, why it is misleading, and the substantiation you have to support your claim. Lacking this explanation, I may not be able to properly address your claims.

Thanks. Jeff

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-30**: 8/15/08 Richards email#2 (1p)

F11-0319WS  
Rcvd 4/25/11



Clemortee R  
Marable/AWP/FAA  
AWP-016, Labor Rel, Training  
& Benefits Br

09/22/2008 09:23 AM

To Daniel A Castellon/AWP/FAA@FAA  
cc  
bcc  
Subject Fw: JL amended pay

Dan,

After a review of the attachments below, I don't see the changes or amendment for the 72 hour settlement agreement. Also I still do not see any time credit for pay periods 8-9. Tell me what I am missing?

Ros

----- Forwarded by Clemortee R Marable/AWP/FAA on 09/22/2008 09:16 AM -----

Gwen Marshall /AWP/FAA  
AWP-016, Labor Rel, Training  
& Benefits Br

09/19/2008 11:16 AM

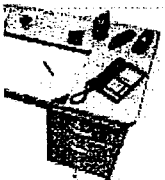
To Clemortee R Marable/AWP/FAA@FAA  
cc  
Subject Fw: JL amended pay

I didn't see you on this transmittal and wanted to ensure you saw this.

Thank you!

Gwen Marshall  
Human Resources Specialist, AWP-16  
(310) 725-7824 (Comm)  
(310) 725-6834 (Fax)

----- Forwarded by Gwen Marshall/AWP/FAA on 09/19/2008 11:15 AM -----



Jason Ralph /AWP/FAA  
TWM-SFO, San Francisco  
ATCT, CA

09/18/2008 01:51 PM

To Glen A Rotella/AWP/FAA@FAA, Gwen  
Marshall/AWP/FAA@FAA, daniel.a.castrellon@faa.gov  
cc Mark Deplasco/AWP/FAA@FAA, Andy  
Richards/AWP/FAA@FAA, Patricia Hardy/AWP/FAA@FAA  
Subject Fw: JL amended pay

Reference our telecon, here is the documentation from the facility manager (Patricia Hardy) indicating Mr. Lewis' time card was amended reference the settlement.

Jason Ralph  
Staff & Support Manager, SFO District  
Voice: (650) 876-2883 X 104  
Blackberry: (707) 280-0973  
Fax: (650) 876-2744

----- Forwarded by Jason Ralph/AWP/FAA on 09/18/2008 10:52 AM -----

Patricia Hardy /AWP/FAA  
TWM-CCR, Concord ATCT,

To

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-31: 9/22/08 Marable email (1p)**

5  
F10-58784P  
RCWD 7-27-10

RCVD 10/4, USPS, +/AW/FA



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Western Pacific Region  
Human Resources Management Division

15000 Aviation Boulevard  
Lawndale, CA 90261

September 25, 2008

Certified Mail Number: 7003 2260 0003 7297 8358

Hamid "Ham" Ghaffari  
NATCA - Western Pacific Regional Vice-President  
550 West Vista Way, #405  
Vista, CA 92380

RE: 3<sup>rd</sup> Step Grievance Response

Dear Mr. Ghaffari:

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012

**Exhibit-32: 9/25/08 Castrellon letter (3p)**

This letter is in response to grievance number NC-08-79364-CCR elevated to Step 3 of the grievance process on July 16, 2008. Time limits to respond by September 26, 2008, have been extended by mutual agreement between the parties. In the elevation the union asserts a violation of Article 9 of 2003 collective bargaining agreement and further files this grievance under protest alleging a violation of Article 9 Section 7 of the 2006 imposed work rules. The union contends that management's prior decision in this case violates the provisions of the 2003 CBA between NATCA and the FAA.

This grievance concerns alleged violation of Articles 66, 10 and 22 of the contract between NATCA and the FAA.

A review of this elevation reveals that this grievance is considered procedurally defective. Although the grievance was originally filed under the 2006 Contract, it is now being elevated under the wrong contract, and further states it is being filed under protest to the 2006 imposed work rules and asserts an argument pertaining to the legitimacy of the 2006 contract over the 2003 contract. The 2003 contract between NATCA and the Federal Aviation Administration (FAA) is no longer applicable. Pursuant to 49 U.S.C. §§ 106 and 40122, a new contract became effective on June 5, 2006, and was implemented on September 3, 2006. The FLRA has issued its final decisions upholding the legal effect of the 2006 contract and the jurisdictional notation in this current grievance serves no purpose. For this reason, the grievance is rejected as procedurally defective.

As to the merits of this case, a review of all available documents has been conducted and I find no violation of the agreement. As stated in the prior grievance response, the record indicates the grievant was medically disqualified from performing air traffic duties by the Aerospace Medical Office on February 16, 2007, due to his violent workplace incident and behavior at his facility. The

Agency's actions of disqualification were consistent with the applicable Medical Standards contained in FAA Order 3930.3A, Appendix 1, Section G.

The grievant was notified by letter dated February 16, 2007 that he was temporarily assigned to administrative leave pending the completion of a Report of Investigation by Security and Hazardous Materials Division. He was further instructed not to report to the Concord facility unless directed to do so by management.

The record further reveals the grievant was charged Sick Leave for one day on February 17, 2007, subsequent to his medical disqualification, however this has since been changed to administrative leave. The record further reveals that effective February 18 through March 17, 2007 (PP06-2007 and PP07-2007) the grievant was placed on Administrative Leave for a total of 152.00 Hours. By letter dated March 12, 2007 the grievant was provided written notice by Manager Jason Ralph of what information would be required to challenge the medical disqualification by the Aerospace Medical Officer. The memo advised the grievant that should he elect to challenge the medical disqualification he was to submit the required medical to Aerospace Medicine by April 2, 2007. The grievant was advised that in accordance with Article 66 Section 6 (b) "....all transportation and expenses will be borne by the employee."

The grievant was further instructed to report to the Livermore Municipal Airport on March 23, 2007 for an interview by security over his conduct at the Concord ATCT on February 16, 2007. Records show the grievant was paid regular work hours for the period during March 18 thru April 14, 2007 (PP08-2007 through PP09-2007) and was not charged any leave.

On April 2, 2007, the grievant requested an extension to provide information to challenge his medical disqualification. On April 4, 2007 Manager Ralph notified the grievant via email he was granting an extension until April 16, 2007 to provide his medical information. On April 24, 2007, a letter was sent to the grievant via his personal email address by Manager Ralph requesting him to review the letter concerning his current leave status and advise Mr. Ralph of his election of the type of leave to utilize. The attached letter in this email was dated April 17, 2007, and also advised the grievant that he was removed from administrative leave status because he was medically incapacitated and has failed to provide any medical documentation to determine his qualification for duty. The records reveal he was placed in a Sick Leave status beginning April 17, 2007.

On April 27, 2007, the grievant responded to the email and memo sent by Manager Ralph indicating he was currently in Seattle, WA and was attempting to provide medical information that would ostensibly clear him to return to duty. The grievant further requested he be continued on an administrative leave status pending his submission of the medical information and until Aerospace Medicine could evaluate his medical information to make a determination of his qualification for ATC duties. The grievant made no election of the type of leave to be used and therefore was charged Sick Leave beginning April 17, 2007 through August 29, 2007 (PP10-2007 through PP19-2007) pursuant to Article 45 Section 1 and 6 of the Contract. The record further reveals the grievant is currently in a paid Administrative Leave status since August 30, 2007.

The grievant subsequently faxed his medical information to Aerospace Medicine on June 6, 2007. By letter dated June 21, 2007, Dr. Goodman informed the grievant he has reviewed all available

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
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**Exhibit-32: 9/25/08 Castellon letter (3p)**

information and concluded the grievant was medically disqualified from performing his air traffic duties pursuant to FAA Order 3930.3A, [Air Traffic Control Specialist Health Program]. This notification also informed the grievant of his right of appeal and if he chose to appeal of his responsibility to pay for any additional information he wishes to present.

On July 12, 2007, the grievant requested information and payment for medical expenses in a letter to the Regional Flight Surgeon. By letter dated July 23, 2007, the Regional Flight Surgeon reminded the grievant of his responsibility to prove that he meets the medical standards of his position. The treating physician (Dr. Haldman) chosen by the grievant and the letter author by Dr. Haldman indicated he did not meet the specific medical standards as noted in the FAA Order 3930.3A and accordingly the grievant would not be reimbursed for his medical evaluation. These actions are consistent with Article 66 Section 6(b) of the 2006 Contract. As such, the Agency finds no violation of the contract as alleged in the grievance.

Concerning the alleged violation of Article 10, at the time of this grievance, no disciplinary/adverse action has been taken. As such, it is the Agency position that there is no violation of the contract as alleged in the grievance.

Concerning the alleged violation of Article 22, the grievant has requested and was provide with all documentation requested by him under several FOIA requests. As such, it is the Agency position that there is no violation of the contract as alleged in the grievance.

The grievant also alleges his time and attendance is incorrect in that he was charged with sick leave or annual leave when he should have been in an administrative leave status. It must be noted that pursuant to a prior Settlement Agreement, corrections were made to the grievant's leave status and 72.00 hours of Sick Leave was amended to reflect Administrative Leave in PP20-2007 (September 4-14, 2007). Based on the above, the grievant has been correctly charged and placed in the appropriate leave status.

Based on the above and for all the reasons previously stated in prior decisions, this grievance is denied. Moreover, neither the grievant nor the union has provided any evidence of a contractual violation of the collective bargaining agreement and/or any supplement thereto.

Sincerely,



Dan Castrellon  
Acting Manager, Labor Relations  
AWP-16

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012

**Exhibit-32: 9/25/08 Castrellon letter (3p)**

cc: Air Traffic Manager  
Concord ATCT (CCR)  
Mark Deplasco – SFO ATCT  
File



**Fw: Lewis hearing - unknown**  
**Mark Deplasco** to Barbara January

10/13/2010 11:53 AM

Mark Deplasco

----- Forwarded by Mark Deplasco/AWA/FAA on 10/13/2010 02:53 PM --

From: Naomi Tsuda/AWP/FAA  
 AWP-007, Regional Counsel  
 To: Mark Deplasco/AWP/FAA@FAA, Andy Rich/AWP/FAA@FAA, Jason Ralph/AWP/FAA@FAA,  
 Patricia Hardy/AWP/FAA@FAA, Susan Haggerty/AWP/FAA@FAA, Don Kirby/AWP/FAA@FAA  
 Cc: Monique France/ANM/FAA@FAA  
 Date: 02/20/2009 04:34 PM (@ 1337)  
 Subject: Lewis hearing - unknown

Greetings - We had a shortened prehearing teleconference on the case, and the judge has not taken the case off calendar. However, thanks to a suggestion by Monique France, we may have a way to resolve this case that is acceptable to the agency. Thus, we are in settlement discussions and there is a decent likelihood this case may settle. The prehearing conference is continued to Tuesday at noon, so if the case settles, or the judge agrees to the suspension of the case, we will advise you asap. However, the judge has indicated he is not inclined to grant the motion to suspend, so please be prepared for hearing to go forward on March 4th.

If the case does not resolve, we will be contacting each of you with further details. We have made the AJ aware of our significant security concerns, and he says the MSPB is amply prepared to ensure security, and will do so.

I apologize for the lack of finality on the hearing information, but I am certain we will know by Tuesday afternoon whether the hearing will be going forward.

Naomi Tsuda, AWP-7  
 Regional Counsel  
 Western Pacific Region  
 (310) 725-7101 / FAX: (310) 725-6816

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Exhibit-33: 2/20/09 Tsuda email (1p)

F11-0272WS  
 RCP 1-15-11




**Fw: Lewis hearing**  
**Mark Deplasco** to Barbara January

10/13/2010 11:53 AM

Mark Deplasco

----- Forwarded by Mark Deplasco/AWA/FAA on 10/13/2010 02:53 PM -----

From: Naomi Tsuda/AWP/FAA  
 AWP-007, Regional Counsel  
 To: Andy Richards/AWP/FAA@FAA, Mark Deplasco/AWP/FAA@FAA, Patricia Hardy/AWP/FAA@FAA,  
 Jason Ralph/AWP/FAA@FAA, James Austin/AWP/FAA@FAA  
 Cc: Monique France/ANM/FAA@FAA, Susan Haggerty/AWP/FAA@FAA, Don Kirby/AWP/FAA@FAA, Don  
 Bobertz/AWP/FAA@FAA  
 Date: 02/24/2009 10:55 PM (@ 1955) **TUES**   
 Subject: Lewis hearing

Unfortunately, I STILL do not have a definitive word on whether we are going forward with the hearing in this case on March 4th. Yes, we had a telephone conference today, but Lewis' attorney asked for more time to consider the offer. We received relevant information regarding the settlement offer today, so Mr. Lewis has until Friday to make up his mind to accept our offer or not.

The Administrative Judge is aware of the offer, and I believe that he understands what we are offering and why. Although I am not at liberty to communicate the offer to all of you, I do not think you would be offended if you knew the terms. The offer does not, in any way, suggest to the AJ that we are concerned with our ability to prove the charges in our case. However, I believe the offer should be extremely attractive to Mr. Lewis, yet does not compromise the agency in any way.

In short, I know that many of you are trying to make your plans for next week. Unfortunately, it looks like we won't know until close to the last minute. As soon as we know, we will advise you. I truly regret this inconvenience, but there is no avoiding it.

Please feel free to call me if you have any questions; otherwise, we will advise you as soon as we have a decision one way or the other. If anyone is not going to be available Friday, please let me know. If we are going forward to hearing, we would like to make arrangements for hearing preparation.

Monique: If we are going to hearing, we would like to have James Swanson and John Crabtree testify. Would they be available on Wednesday, the 4th? Also, due to security and safety concerns, I am working on getting a courtroom in San Francisco that will have a fully-operational metal detector and armed US Marshals available. The MSPB courtroom is on the smaller side, and I am hopeful that I will be able to make arrangements at a larger, more comfortable venue.

Thank you for your patience,

Naomi Tsuda, AWP-7  
 Regional Counsel  
 Western Pacific Region  
 (310) 725-7101 / FAX: (310) 725-6816

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
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**Exhibit-34: 2/24/09 Tsuda email (1p)**

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U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Concord Tower  
201 John Glenn Drive  
Concord, CA 94520

February 16, 2007

Jeffrey N. Lewis  
Air Traffic Control Specialist  
Concord Airport Traffic Control Tower  
Buchanan Field  
201 John Glenn Drive  
Concord, CA 94526-9022

Mr. Lewis:

This serves as notice that you are temporarily assigned to administrative leave pending the completion of a Report of Investigation by the Security and Hazardous Materials Division. You are directed to not report for duty at the Concord Airport Traffic Control Tower until you have been contacted by me and directed to do so.

You are further advised to remain available locally Monday through Friday during regular business hours in order to accommodate any interviews that may be necessary. As of today, you have been medically incapacitated from performing safety-related duty based on a teleconference that was conducted between Aerospace Medicine, General Counsel, Security and Hazardous Materials Division, Human Resources, and the Air Traffic Organization. Further administrative direction will be sent to you.

It is imperative that you return via the enclosed envelope, your FAA identification and keys. Please sign acknowledgement of this letter and return it with your identification. I will be in contact with you as the situation warrants. If you have any questions, you may reach me at (925) 685-5743.

Sincerely,

Jason Ralph  
Air Traffic Manager

cc: AWP-7  
AWP-300

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
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**Exhibit-35:** 2/16/07 Ralph letter (1p)

Receipt Acknowledged: \_\_\_\_\_  
Jeffrey Lewis, CPC

Date \_\_\_\_\_



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Concord Tower  
201 John Glenn Drive  
Concord, CA 94521

March 12, 2007

Jeffrey N. Lewis  
28242 S. Salo Road  
Mulino, OR 97042

Mr. Lewis:

I very concerned about your physical and emotional well-being and recent conduct at the facility. On several occasions since your assignment to the facility, in October 2006, you have gotten into several arguments with coworkers, made inappropriate remarks in the workplace and behaved in a progressively alarming fashion. As a result of your outburst on February 13 and 16, 2007, when you repeatedly shouted and banged on my office door in anger, you were restricted from the facility, until further notice, due to insubordination, and repeated hostile and physically intimidating conduct directed towards your coworkers and supervisors.

I instructed you via memorandum on February 16, 2007 to return your FAA identification media and facility keys, until such time that a security Report of Investigation can be completed and I have necessary information to determine your ability to perform your duties and that you no longer pose a threat to others. **I am directing you to report to the Livermore Municipal Airport, 590 Airway Blvd., Livermore, CA 94551. You are to report to Tim Johnson, Manager LVK ATCT at 9:00 AM, Friday, March 23, 2007.** You will be interviewed by Jim Austin, Special Agent, Security and Investigations Division.

I have enclosed a copy of your position description so that you can obtain a medical evaluation and provide required medical documentation.

Please have your physician(s) read this letter and then provide documentation regarding your current medical condition/status and its impact on your ability to perform the duties of your position. Acceptable medical documentation must include the following information on the physician's letterhead with his/her original signature and date:

- a. Diagnoses of your condition(s) and any resulting impairments; clinical findings from the most recent medical evaluation, and psychiatric evaluation or psychological assessment, the findings of any mental status examination, and the results of any psychological tests;
- b. An explanation of the way your condition may substantially limit your major life activities – both on and off the job;
- c. Specific discussion of the way that condition or treatment for the condition may be affecting your ability to perform the essential function of your position;

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-36:** 3/12/07 Ralph letter (3p)

- d. Prognosis, including plans for future treatment, an estimated date of your full or partial recovery and ability to return to your Air Traffic Control duties on a full or part-time basis;
- e. Narrative recommendations regarding any specific accommodations that s/he feels would be effective for your particular medical condition, specifying duration for such accommodations. The physician should also address how s/he believes the accommodations will enable you to perform the duties of your position.

Please know that "physician" means a licensed Doctor of Medicine (MD) or Doctor of Osteopathy (DO), or a physician who is serving on active duty in the Uniformed Services and is designated by the Uniformed Services to conduct examinations.

The above information will be utilized to determine the impact any current health issues may be having on your conduct and ability to perform the essential functions of your position and if reasonable accommodations are necessary or possible. Any information submitted will be treated in a confidential manner.

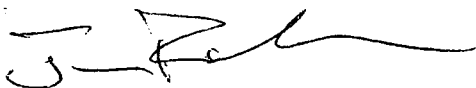
Please have your physician(s) submit the required medical documentation to me by April 2, 2007. You may mail or fax the required documentation to my attention at (925) 825-1076. If you so choose, the physician(s) may also fax the medical documentation directly to Aerospace Medicine, Attention: Dr. Stephen Roberts at (310) 725-6835. Please call before faxing – your doctor may contact Aerospace Medicine at (310) 725-3750. If you or your physician(s) have any questions about the request for medical documentation, you may call me at (925) 685-5743 or Dr. Roberts at the above listed number.

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Exhibit-36: 3/12/07 Ralph letter (3p)

I want to remind you of the availability of the Employee Assistance Program (EAP) to assist you and your designated family members with any appropriate issue. The service is free and totally confidential. You may speak with a licensed professional counselor and/or schedule an appointment by calling (800) 234-1EAP. You may also access a referral and/or receive additional work/life information via a home computer at [www.magellanhealth.com](http://www.magellanhealth.com). You will be asked generic occupational information and you may register with a unique user ID or access as an unregistered guest.

I encourage you to provide the requested medical documentation, so that an informed management decision can be made, in consultation with Aerospace Medicine. Your failure to provide the required information relative to your recent behavior may result in disciplinary action against you.

Please return your signed acknowledgement of receipt of this letter to me in the enclosed self-addressed, stamped envelope. If you have any questions about this letter, please contact me at (925) 685-5743.



Jason Ralph  
Air Traffic Manager, CCR ATCT

cc: AWP-16A (D. Fossier)  
AWP-300 (Dr. Griswold)

Receipt Acknowledged:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Lewis v. FAA, et. al., 3:11-CV-1458-AC  
July 2, 2012  
**Exhibit-36:** 3/12/07 Ralph letter (3p)



**Jason Lewis Issue****Dick Fossier**

to: Stephen GoodmanMD

05/09/2007 01:46 PM

AWP-010, Human Resource Management

Cc: Teri Bristol, Barry J Davis, Tony DiBernardo, Dennis Sullivan, Jason Ralph, Gwen Marshall, Cindy Lopez-Hickson, Stephen Roberts, Richard Giles, James Austin

DR GOODMAN et. al. - I understand that Lewis' doctor/psychiatrist called Jason Ralph earlier in the week re Lewis. Jason contacted Dr. Goodman; Jason then called Dr. Haldaman and gave him Goodman's phone #. Jason, Barry, & I talked today, and discussed where we are going on this case. Steve - did Dr. Haldaman contact you? If so, is there anything you can share with the group? Jason has a real fear of ever having Lewis coming back to CCR; it is a fear for his e'ees, his supv, and himself if Lewis were ever to return to CCR. Some of the issues I see is that with almost 20 years of Fed'l service, Lewis has no disciplinary record. Many performance issues, but no conduct record. So my suggestion is that if Aerospace medicine opts to reinstate Lewis and return his medical, the LOB and 16 need to decide our next move. Just a piece of information, after we had a violence in the workplace meeting on February 16, medical pulled Lewis's medical and he was on Admin Leave for 2 months; on April 17, he started on S/L where he remains. He has 501 hours of SL and 46 hours of AL on the books. THANKS all - dick (X - 7827)

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**Exhibit-37:** 5/9/07 Fossier email (1p)

F10-1696WP  
 Rcvd 2/16/10

(172)

146PM

10/1

28242 S. Salo Rd., Mulino, OR 97042

tel. (503) 710-1515

Saturday, August 09, 2008

Mr. Dick Fossier  
AWP-16a,  
15000 Aviation Boulevard  
Lawndale, CA 90261

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**Exhibit-38:** 8/9/08 Lewis letter (5p)

Mr. Fossier,

Thank you for taking time yesterday to discuss Accountability Board (AB) Cases #20070097 and #20070098 with me in our two phone conversations. I truly appreciate your willingness to help me research the facts of this case and how it has been handled. Unfortunately, no matter how nice it was to talk with you on the phone yesterday, I am pressed by Andy Richards' proposal to remove me to push you (more than I care to) for critically needed documents and facts. So,...

One of my questions to you was when your "involvement" began in my case. You advised (and please send me a correction if you feel I am incorrect in any of these notes from our phone calls) that in early 2007 you were the ER specialist charged with working the SFO hub. As such, you stated your involvement probably began on the afternoon of 2/13/07, when Jason Ralph called to discuss the interview process for my AB cases. Attached, please find a copy of the notes I made nearly 540 days ago (when it was fresh!); this is what happened at those meetings with Jason, 2/13 and 2/16.

Additionally, please advise what consultation you provided to Jason during the period from 1/20/07 to 5/1/07. Through a FOIA request last summer, I was provided a copy of "**A Supervisor's Guide for Responding to Violence, Threats, or Inappropriate Behaviors**". For the record, I had no idea that specific hostile behavior was being alleged about me until 7/24/07, when I received a letter from the Regional Flight Surgeon rejecting my appeal against a permanent medical retirement. This letter was the first I learned of the Violence in the Workplace (ViWP) teleconference initiated by Jason Ralph more than five months earlier, on 2/16/07. Text in this Guide states that, for alleged violent behavior...

*"...contact HR and EAP for assistance in determining an appropriate course of action. If you determine that the employee should be restricted from the worksite for a period of time, HR can provide assistance with the procedural requirements for taking this action."*

Dick, as I have now been "restricted from the worksite" for 540 days, can you now advise exactly what Jason told you in those mid-February 2007 phonecalls, and what assistance you provided? Please confirm, did you refer Jason to "**FAA Order WP1600.32, SUBJ: Managing Potential Workplace Violence Situations**"? Did you impress upon him the

SOURCE: PRIVACY ACT REQUEST REC'D 9-1-10

D26

Lewis, 8/9/08, RE: ROI AWP20070078, page 2

critical need to create a written documented record, and to be timely in disciplinary action (per Order WP1600.32, Appendix 3)?

Reference that ViWP teleconference convened by Jason on 2/16/07, the copy of "**FAA Order WP1600.32, SUBJ: Managing Potential Workplace Violence Situations**" provided by Dr. Goodman in response to my FOIA request indicates you (representing AWP-10) convened the meeting at the request of Jason (representing the parent division). Please provide an email or a written list of names and contacts for all who attended this ViWP teleconference. Additionally, the Order details your functions, which, among other things, included providing guidance for conduct/discipline, guidance relative to the Accountability Board, and guidance on Personnel Actions. So, again, Dick, please provide all your written notes and correspondence to/from Jason and other Air Traffic management relevant to the handling of my case, including my transition to involuntary burning of personal leave effective 4/17/07 (which was an adverse action undeclared and not properly initiated), my nine weeks of LWOP status, the failure of Air Traffic management to call me back to work, and the present proposal to remove me "...for the efficiency of the Federal Service".

Lastly, Dick, please provide a straight-forward written statement: on 2/16/07, in Dr. Goodman's office, who made what specific decisions based on what specific allegations? And, were any safeguards in place to protect against a rogue manager waging a campaign of malicious slander against an employee?

If there is anything I can do to help expedite delivery of these materials, please email or call. Thank you for your assistance.



Jeff Lewis

PS, Dick, since we discussed the migraine incident on Friday morning and you said you were not aware of it, I am also attaching those diary notes.

ATTACHMENTS:

Lewis, Notes from CCR meetings, 2/13/07 and 2/16/07 ✓SL/p  
2/16/07, Memo, Jason Ralph to Lewis (copy kept by Lewis) ✓SL/p  
Lewis, 1/23/07 HWE Notes: first interrogation, 1/22/07 migraine incident ✓SL/p

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**Exhibit-38:** 8/9/08 Lewis letter (5p)

D27

*Lewis, notes from CCR meetings, 2/13/07 and 2/16/07, page 1*

(2/13): I came in and worked my 8AM shift. On my first break I wrote up a short memo with a few quick easy questions for which Patricia's answers would help me prepare for the interview. Patricia repeatedly refused to accept my memos, and did not even begin to read them. Bill arrived around 1:15 and a short while later Patricia called me to her office. Bill and I requested and were allowed to meet to update each other and discuss strategy for the meeting. Bill and I went to the office, where Patricia smiled and easily accepted the memos, then gave me a copy of the Administrator's Hotline complaint. Bill asked for a copy, too, so she made one. I read the first two lines, both false accusations that were implicitly directed at me, and I wanted to go confer with Bill in private, but Patricia and Jason did not want to allow that. I commented about still never having been given a clear assessment of the known specifics of the allegation, and I asked for an update. Patricia offered nothing except that she had interviewed four people who said I had used a racial slur. Patricia proceeded to ask if I had used the n-word. I stated I did not feel it appropriate to answer her, given the history of hostility toward me she and Jason had both demonstrated, and especially in light of the false accusations in the first two lines of the Administrator's Hotline digest. I stated I felt they had a prejudice against me. I added that Patricia had seriously bungled the Accountability Board process, and this matter was very sensitive and sufficiently complex to warrant an objective outsider to conduct the interview. I added that sensitive content in the Administrator's Hotline digest supported the need for an outside investigator. Jason pushed for me to answer Patricia's questions. Bill reiterated my request that Jason and Patricia should forward on to the Accountable Official a request for an outside investigator. I asked Patricia to confirm that four people claimed I had used the n-word. She confirmed, at which point I said there are people who have lied to her and we need an outside investigator. Jason restated the need for me to answer Patricia's questions. I then made a statement based on 15(f)(3), that this matter is extremely sensitive to me and the circumstances quite unique and complex what with the Administrator's Hotline call and the interviewees who had lied to Patricia, and therefore I requested Patricia make a request that an investigator be assigned from outside. I gave the statement to her slowly so she could accurately record the words. I noted she was not writing anything down so, I added that I wished she would write it down, and did she need me to repeat it. She and Jason talked about how it would be in her Record of Conversation. I commented how completely inaccurate her past Records of Conversation had been, how she really needed to write it down, but she refused. I asked if I could then go draft a written statement and Jason and Patricia said no. Throughout the meeting Jason and Patricia never warned me that my failure to answer Patricia's questions could lead to disciplinary action. The meeting ended. I went downstairs and began drafting my written statement. Roughly ten minutes later Patricia called and advised I could leave an hour plus early on Administrative Leave. I said "thanks but no thanks, I'm drafting up a written statement and would stay...but could I have a raincheck on the Administrative Leave?" She did not reply and I quickly added, "just kidding...but I will have a statement for you soon." I finished the statement, printed up three copies, and went to the tower cab. I gave a copy to Bill, which I signed per his request. Bill advised I should attempt to deliver the statement and, if management refuses to accept it, he would give them his copy later on. I then headed downstairs, knocked on the locked office door and saw Jason at his desk on the phone and Patricia at her desk, on her computer. I held

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**Exhibit-38: 8/9/08 Lewis letter (5p)**



*Lewis, notes from CCR meetings, 2/13/07 and 2/16/07, page 2*

up a copy to be viewed through the door window and stated through the locked door that I had my finished written statement for the investigation. Jason excused himself from his phone call and looked over and said he was on a teleconference and could not accept it. I asked if Patricia could get it (she did not even look up) and Jason answered he would not accept my written statement. The two comments Jason had already made were more effort than it would have taken for him to stand up and take four steps to the door to accept the written statement. And it would have been even easier to communicate if the door had not been locked. I asked if it was possible to slide it under the door; no answer. I tested sliding it under the door and the seal was too tight, so I left the copy at the foot of the door, then told Jason I had left it and said "goodbye".

(2/16): I came in as planned, for a 10AM shift. Based on the call I made to Bill the night before, I understood first business would be Bill and me visiting with Jason for a memo directing no contact with other CCR employees about the misconduct investigation. I passed Jason's office on the stairs, heading up two more levels to put my cellphone and coffee cup in my locker; Jason sounded alarmed that I was continuing upstairs when he told me to come back, but I told him what I was doing and said I would be back before Bill could get there from the tower cab. I returned quickly and had a few minutes alone in Jason's office before Bill could get there. I asked Jason if he got the copy of my statement I had left Tuesday afternoon. He acted like he did not know what I was talking about and said nothing (his normal style) rather than asking a clarifying question. I asked again, this time clarifying had he picked up the copy I had left outside his door or had Bill given him a copy, and had the copy been added to the investigative report? Jason paused then stated he had "retrieved" my copy. Had he added it to the report?...no answer. [note, 8/08: neither Jason's nor Bill's copy was added to the investigative report; I submitted my own copy at my interview 3/23/07] Standard operating procedure...we were going nowhere. Bill arrived and we began our planned meeting. Jason made a statement (I learned later he was restating the content of his short memo). I stated my agreement with the need to not discuss, and that it was consistent with guidance in Order 1110.125A. However, I took issue with his use of the words "previously stated" in reference to the order to not discuss; I stated no such "previous" directive had been made. Jason was being vague and so I asked him to clarify if he was meaning he or Patricia had given me a previous gag order. Jason continued to dance around and not give a clear answer. Bill and I were allowed to exit to the stairwell for a quick conference during which I whispered to Bill the need for him to intervene, to help Jason answer the key question: is Jason saying he and/or Patricia had given me previous directive to not talk to my coworkers (if so, he is lying)? Bill agreed. We went in and resumed the discussion. I soon asked Jason the same question and, when he again dodged it, Bill piped in and asked Jason to clarify. It went back and forth a couple times between them and then Bill stated I was mostly concerned about possibly being in trouble for what Jason or Patricia may have previously said. I then clarified that that was NOT my concern, that yes we need Jason to clarify if he believed a directive had been previously made, but since it had not, I was not concerned about "being in trouble". Jason then gave me a copy of the memo and asked me to acknowledge signature. I asked why, given that Bill was here witnessing. Jason insisted I needed to sign but I said I needed to annotate reference the false statement about "previous" direction. Jason stated I could not annotate.

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Exhibit-38: 8/9/08 Lewis letter (5p)

D29



*Lewis, notes from CCR meetings, 2/13/07 and 2/16/07, page 3*

I then clarified I did not want to appear uncooperative, so felt pressure to sign, but would like to annotate. Jason loudly ordered me to not annotate. I started scribbling a note, that I will later submit amplifying comments as I was not allowed to annotate, then realized that my note might be considered an annotation, so I then folded up the copy to keep as mine and told Jason he could keep his copy which I would not sign. Later, I noticed the subject line: interfering with an official investigation. Huh?? What has Jason been doing, with his denying me a simple right to annotate, with his refusal to accept my written statements, with his refusal to discuss matters with me?

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**Exhibit-38:** 8/9/08 Lewis letter (5p)

## WATCH ITEMS

10/9/07

		OSC MSPB	Currently on hold pending the Fed Dist. Ct decision on his initial appeal of the removal action. 8/22/07 ahm
		MSPB Decision	Recently an MSPB decision was rendered on [REDACTED] Enforced Lv. Issue. The Appellant prevailed but there is no remedy. The judge did not order back pay nor did he state any discrimination based on an alleged disability. Currently awaiting [REDACTED] reply to his removal for Medical DQ 8/29/07 and the facility will determine if they plan on sustaining the proposed removal. 8/22/07 ahm
		ODP Misuse of gov't card, insubordination & disrespectful conduct	Reviewed ODP and sent suggested changes on 9/19/07.
		AWOL	Pending medical revocation with Aerospace Medicine
		ReaAc Req.	Pending


SOURCE: FIO-538700, rec'd 9-7-10 (p.37)

← Redacted AWOL  
(JUSTIN)

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Exhibit-39: Terminal Report copies (2p)

## WATCH ITEMS

6/2/08

Facility	Employee Name	Issue	Status
		FMLA	FMLA granted for a serious health condition. Emp. also requested advanced s/l for another ailment which was denied. Medical certificate and employee's statement did not support that this was a serious ailment. Gm 4/22/08
		QDP completed	Sustained performance for one year was deleted from the congratulatory letter based on recent guidance from HQ-Field. Gm 4/22/08
CCR	Lewis, Justin	AWOL	Pending medical revocation with Aerospace Medicine
		OSC MSPB	Currently on hold pending the Fed Dist. Ct decision on his initial appeal of the removal action. 8/22/07 ahm given an ext. by counts ahm 3/25/08, no change ahm 4/7/08
		Training Failure ABTS from HQ	Awaiting the Training Package from Facility ahm 4/7/08
		Responded to Inquiries concerning termination during probationary action. No further inquiry from HQ. Case Closed.	Removal was ok'd gm 4/22/08
		Attendance	
		Incapacitated since	Drafting a cook letter, prior to non-disciplinary removal. Employee was denied disability retirement and is filing an appeal.
		Leave Abuse	Recvd draft Leave Restriction ltr and b/g on 5/8 and 6/16/08

Source: FI-68841PR rev'd 8-22-11

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Exhibit-39: Terminal Report copies (2p)